

MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY

Santa Fe, New Mexico

February 12, 2003

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico was called to order on this date at approximately 4:00 p.m. in City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, Roll Call indicated the presence of a quorum, as follows:

Members Present:

Mayor Larry A. Delgado
Councilor Carol Robertson Lopez, Mayor *Pro Tem*
Councilor Patti J. Bushee
Councilor Miguel M. Chavez
Councilor David Coss
Councilor Karen Heldmeyer
Councilor Matthew E. Ortiz
Councilor David Pfeffer
Councilor Rebecca Wurzbarger

Members Excused:

None.

APPROVAL OF AGENDA

Councilor Heldmeyer asked that Item 12 on the Afternoon Session Agenda be postponed in order to continue through the committee process before returning to the Council for action (Joint City-County Resolution Concerning Joint Development of a Sustainable Water Supply for the Santa Fe Regional Area). She said the resolution generated a lot of discussion at this week's Public Works Committee meeting, most of it centering around concerns that the resolution discusses City and County support of potential legislation that has not yet been spelled out.

Councilor Heldmeyer moved approval of the Agenda, postponing Item 12 to the next Council meeting so it can go through the committee review process.

Councilor Chavez seconded the motion.

Councilor Lopez asked that the motion be withdrawn so she could add a resolution to the Agenda:

CONSIDERATION OF RESOLUTION NO. 2003-____.

A Resolution in Support of the City of the Santa Fe's Intention to Act as the Fiscal Agent for the Santa Fe Farmers Market Institute to Achieve the Establishment of a Permanent Site.

Councilor Heldmeyer and Councilor Chavez accepted the addition of the resolution as a friendly amendment.

Speaking against the postponement of Item 12, Councilor Lopez pointed out that the County Commission unanimously supported this resolution at its meeting last night. She said she thought that gesture called for the Council to act tonight on the resolution.

Councilor Wurzbarger spoke against the postponement of Item 12. She said the Public Works Committee spent an hour and twenty minutes discussing this resolution, which she thought sufficient; and the Council could discuss it further tonight. She commented, "The fact that we don't have a specific piece of legislation does not change the intention, which was to give us the authority to move forward with the County, hand in hand, looking at options at how we could pursue funding for looking at water on a regional basis. If we wait another two to three weeks, we feel it'll be too late."

Councilor Pfeffer said he thought Item 12 warranted further discussion and should be left on the Agenda to allow that.

Councilor Pfeffer asked that the following item be added to the Agenda:

CONSIDERATION OF RESOLUTION NO. 2003-____.

(Mayor Delgado)

A Resolution Authorizing the City of Santa Fe to Seek Legislative Approval From the State of New Mexico to Enable the City to Adopt a One Percent (1%) Special Use Tax on the Cost of All Lodgers' Overnight Accommodations for the Limited Purpose of Building a New Civic and Convention Center.

The addition was accepted as a friendly amendment.

Councilor Wurzbarger requested that Items G4, G5 and G6 on the Evening Session Agenda be postponed to the next meeting, regarding Housing Opportunity Program provisions to Chapter 14. She said staff was comfortable with the two-week postponement.

The amendment was accepted as friendly.

The motion to approve the Agenda, postponing Item 12 and Items G4, 5 and 6 on the Evening Session Agenda, and adding the two resolutions, was defeated after Mayor Delgado broke a tied Roll Call vote as follows:

For: Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer.

Against: Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger; Mayor Delgado.

Councilor Ortiz moved to approve the Agenda with all of the previously introduced amendments with the exception of the amendment to postpone Item 12 to the next meeting. Councilor Lopez seconded the motion, which passed on the following Roll Call vote:

For: Councilor Coss; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger.

Against: Councilor Chavez; Councilor Heldmeyer; Councilor Bushee.

APPROVAL OF CONSENT CALENDAR

Councilor Heldmeyer requested that Item k (Nonexclusive Cable Television Franchise Agreement; Comcast Cablevision) be postponed to the beginning of the Evening Session Agenda (following Liquor Licenses) to allow discussion between staff and Comcast representatives regarding concerns, which surfaced just yesterday in the news, about political censorship by Comcast.

Councilor Ortiz moved approval of the following Consent Calendar, as amended. Councilor Lopez seconded the motion, which passed on the following Roll Call vote:

For: Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger; Councilor Bushee; Councilor Chavez.

Against: None.

- a) Bid No. 03/18/B – Mary Esther Gonzales Senior Center Renovations; Gemtech Builders, Inc.
 - 1) Request for Approval of Budget Transfer – Project Fund.
- b) Request for Approval of Procurement Under State Price Agreement – Water Meters; Hughes Supply.
- c) Request for Approval of Procurement Under State Price Agreement – Tires for City Vehicles; Listed Vendors.
- d) Request for Approval – Sale of Gates Hose Crimper Press; Caja del Rio Landfill.

- e) Request for Approval of Project Agreement – Selective Traffic Enforcement Programs (STEP); State Highway and Transportation Department, Transportation Programs Division, Traffic Safety Bureau.
 - 1) Request for Approval of Budget Increase – Police Fund.
- f) Request for Approval – Construction of a New Hangar on Leasehold at Municipal Airport; Zia Aviation, Inc.
- g) Request for Approval – Santa Fe Municipal Airport Disadvantaged Business Enterprise Program Plan and Initial Goal.
- h) Request for Approval of Professional Services Agreement – Community Economic Development Plan Update (RFP No. 2003/08/P); Angelou Economics.
- i) Request for Approval of Proposed Revisions to City of Santa Fe Purchasing Manual.
- j) [Removed by Councilor Lopez for discussion.]
- k) [Postponed to Evening Session Agenda.]
- l) CONSIDERATION OF RESOLUTION NO. 2003-13.
(Councilor Wurzbarger, Councilor Ortiz, Councilor Pfeffer, Councilor Heldmeyer, Councilor Coss)
A Resolution to Develop and Adopt a Regional Affordable Housing Strategy.
- m) CONSIDERATION OF RESOLUTION NO. 2003-14.
(Councilor Wurzbarger, Councilor Ortiz, Councilor Pfeffer, Councilor Heldmeyer)
A Resolution to Increase the Amount of Developable Lands for Affordable Housing.
- n) CONSIDERATION OF RESOLUTION NO. 2003-15.
(Councilor Wurzbarger, Councilor Ortiz, Councilor Pfeffer, Councilor Heldmeyer and Councilor Bushee)
A Resolution to Create an Affordable Housing Investment Fund and Facilitate Expenditure of Existing Financial Resources to Support Affordable Housing.

APPROVAL OF MINUTES:

City Council Study Session – January 29, 2003

Councilor Lopez moved approval of the January 29 Study Session, as submitted. Councilor Pfeffer seconded the motion, which passed 7-0 by voice vote, with

Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Lopez, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzbürger voting for, and none against. [Councilor Heldmeyer was not present for the vote.]

Regular City Council Meeting – January 29, 2003

Councilor Lopez moved approval of the January 29 meeting, as submitted. Councilor Bushee seconded the motion, which passed 7-0 by voice vote, with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Lopez, Councilor Ortiz, Councilor Pfeffer and Councilor Wurzbürger voting for, and none against. [Councilor Heldmeyer was not present for the vote.]

PRESENTATIONS

**Michelle “Shelly” Nolde, Wildland Urban Interface Specialist.
(Fire Chief Sperling)**

Chief Sperling introduced Shelly Nolde to the Governing Body. He stated that Ms. Nolde’s position title is referred to in some circles as an “urban forester.”

Chief Sperling stated that Ms. Nolde would be assisting the Fire Department in suppression planning and prevention of wildfire in the wildland urban interface. He said she would also be assisting the City in addressing wildfire concerns in the Santa Fe Watershed, and coordinating the Fire Department’s efforts with federal, state and county entities.

Chief Sperling stated that Ms. Nolde has 25 years of experience with the U.S. Forest Service, and served as district ranger in Boulder for five years. He said that, from 1998 through 2000, she served as a Forest Service representative to the Western Governors Association, specializing in forest and wildfire issues.

**Introduction of Police Officers: Anthony Guerrero and James Plummer.
(Police Chief Beverly Lennen.)**

Police Chief Lennen introduced new officers Guerrero and Plummer. She commented, “I know at times the strict standards that our department has set have been a point of consternation in us bringing on officers quickly, but these two officers are evidence of why those standards are in place.” She noted that Cadet Officer Guerrero received the Leadership Award for his Academy class, and Cadet Officer Plummer received the Ethics, Integrity and Hard Work award.

Mayor’s Holiday Food Drive. (Jackie Gonzales)

Gerard Martinez, who was present for Ms. Gonzales, described the history of this program, which now has been extended into the community itself. He thanked Mayor

Delgado for his vision, and for the direction and guidance of the City Manager and Parks and Recreation director.

Mr. Martinez said \$3,410.80 in food products was contributed, which included the purchase of 49 turkeys and \$1,410.80 worth of food gift certificates, plus a \$1,000 donation to the Food Depot. He said they were also able to supply the Food Depot with nonperishable food items that provided 8,108 meals, or 3,161 pounds of food.

Mr. Martinez presented Muchas Gracias certificates to contributors, who included Eldorado Hotel, Whole Foods, Just the Best Produce, Mountainair Meats, Coca-Cola Bottling, McDonald's of Santa Fe, and Rainbo Bread.

"Canteen Truck" Homeless Outreach Program. (Dorian Dodson, Executive Director of St. Elizabeth Shelter.)

Ms. Dodson described the joint efforts of the Salvation Army and St. Elizabeth Shelter in providing space for men needing a place to go on cold nights between November 1 and March 31, and who cannot be accommodated at St. Elizabeth for lack of room. She said St. Elizabeth provides space for women and children.

Ms. Dodson said the need for services continues to increase in Santa Fe, with at least 50% of the recipients of these services being from Santa Fe. She also stated that an estimated 1,200 people do not seek these services, preferring to sleep under bridges, in cars and in camping areas all around the city. She stated that this population includes youth and elderly, some in their mid 80s.

Ms. Dodson stated that a canteen truck would go into the streets to serve people decaffeinated coffee as well as distribute blankets, information "and a friendly and steady reliable face that they know is going to be there." She said they are working with various agencies to set up in specific locations. She stated that the Police Department has been extremely helpful in identifying locations and offering assistance in making this program known.

Ms. Dodson said volunteers are being sought. She distributed invitations to a luncheon, to be held tomorrow at the Salvation Army, describing the new canteen truck program and thanking volunteers for their hard work.

Legislative Report. (Mark Duran)

Mr. Duran stated that the City of Santa Fe has three priorities in this Legislative Session: 1) the Buckman direct diversion project; 2) upgrades to the water treatment facilities, and 3) Buckman Wells 10-13. He said all three projects have been introduced by one or more Santa Fe delegation members in both the House and Senate; additionally, Mayor Delgado met with Governor Richardson's chief of staff to discuss

these projects, and the hope is to have some of the City's projects included in some of the Governor's priorities.

Mr. Duran said some of these projects are on a simultaneous track with the New Mexico Finance Authority, which is asking the Legislature for \$1.6 million through Senate Bill 109. He said the City has a \$7 million application in for Wells 10-13, and the NMFA is in the process of approving the \$7 million request in the form of a 2% loan. He said the loan funds would come from the federal Clean Water Drinking Act, which requires a 20% match by the state entity.

On the Buckman direct diversion project, Mr. Duran said the City has an application in for \$94 million, but is on a priority list to have \$2 million approved from the Legislature through Senate Bill 294, also initiated by the NMFA.

Mr. Duran stated that it might be advisable to rethink the City's efforts and go back to the Santa Fe delegation and have each of them introduce a bill for the Santa Fe water treatment upgrade. He said that would concentrate the House and Senate — and potentially the Governor's — capital outlay monies toward that project, since this is the only one of the three projects that has no application in with the NMFA.

Mr. Duran also reported that several Santa Fe delegation members have asked the City to begin studying the impact it would suffer from a reduction or elimination of the food tax and GRT on medical services. He said the City Manager is gathering this information to put together a fiscal impact report.

Councilor Heldmeyer commented that she and other Councilors would be interested in testifying at the Legislature with respect to certain matters, and asked if a system has been established to notify Councilors when their testimony is requested.

City Manager Jim Romero responded that apparently some Councilors did not receive an email sent out last week regarding one particular Legislative bill, so he or Mr. Rios would be contacting Councilors by telephone in the future.

Responding to questioning from Councilor Bushee, Mr. Duran said there were literally "dozens and dozens" of bills being proposed in response to the Governor's tax reduction bills. He said he has been relying on the Municipal League to monitor the situation as it moves forward. He stated that he would be working with the City Manager and Governing Body to determine whether he should lobby for or against any legislation that finally comes forward.

Councilor Wurzbarger asked Mr. Duran if he could elaborate on a memorial to be proposed by Sen. Roman Maes involving the merger of the City and County in a regional water system, since she knew nothing about it.

Mr. Duran responded that he did not know very much about it, but "I can say that there have been some unique circumstances in regard to introduction of the City bills and the County's bills, as to whose bills they are, who is the lead on those bills and who

is there to testify on those bills.” He stated that he did not know if that had anything to do with the memorial, which he only recently learned about, but he planned to review the analysis on the memorial and report to the City Manager.

CONSENT CALENDAR DISCUSSION

j) CONSIDERATION OF RESOLUTION NO. 2003-16. A Resolution Approving Fiscal Year 2002/2003 Midyear Budget Review and Adjustments.

At Councilor Lopez’s request, Finance director Kathryn Raveling provided an overview of the state of the City’s finances at the midyear point. She said that, based on the City Manager’s recommendations, General Fund revenues were increased by a conservative 2.36%, which enabled the City to fill some positions previously left unfunded as well as meet some other critical needs.

Ms. Raveling cautioned the Council that, although GRT revenues are currently at 6.5%, the City has been in this situation before, only to see GRT revenues drop and result in an overall average of 2.5%.

Ms. Raveling said the biggest issues facing the budget are the employee and retiree medical funds, which are having some problems. She stated that she would be bringing recommendations to the Finance Committee for consideration.

Councilor Lopez commended Ms. Raveling as well Comptroller Teresita Garcia and her staff for doing a tremendous job working on this budget. She thanked the City Manager for his willingness to “make some really tough calls” in terms of not filling some positions and holding off on some expenses to keep the City in the black.

Councilor Lopez moved for approval. Councilor Pfeffer seconded the motion.

Mayor Delgado asked Ms. Raveling if the increased jail costs were being addressed in the budget, and Ms. Raveling responded that the increased costs were due to more people being incarcerated, and the rates were still being negotiated between the City and County.

Police Chief Beverly Lennen clarified that the City currently could not provide payment to MTC or the County because there was no contract in place. She stated that the County’s proposed rate was \$65 per inmate day, and the City’s counterproposal was \$57.

City Manager Romero stated that he would be meeting with acting County Manager Steve Kopelman tomorrow morning, and he hoped to see a resolution to this issue within the next two weeks.

Councilor Heldmeyer said she thought it important to point out that the increased incarceration was because some individuals in Judge Gallegos' alternative sentencing program were repeatedly violating the terms of the program, leaving the Judge no choice but to put them in jail. She noted that Judge Gallegos was present with Court Administrator Mary Ann Caldwell.

The motion passed on the following Roll Call vote:

For: Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzbarger; Councilor Bushee; Councilor Chavez; Councilor Coss.

Against: None.

[Conclusion of Consent Calendar Discussion.]

CONSIDERATION OF RESOLUTION NO. 2003-17.

(Councilor Wurzbarger)

A Resolution Expressing the Support of the Governing Body of the City of Santa Fe for the Funding Proposals of the Santa Fe Business Incubator at the 2003 Session of the New Mexico Legislature.

Councilor Wurzbarger moved for approval. Councilor Wurzbarger seconded the motion.

Noting that the City has put its priorities into water funding issues for this Legislative Session, Councilor Heldmeyer asked City economic development planner Steve Whitman if it would hurt the City to adopt this resolution.

Mr. Whitman responded that, as he understood it, all of the water money was capital outlay and, therefore, Severance Tax bond money; and the Incubator bills were asking for money from the general fund, so they were from different pots.

City Manager Jim Romero added that water has been designated as the City's number one priority, and he has not been given direction by this Governing Body to pursue any other project at this point. He said he makes it clear that water is the City's first priority whenever he meets with legislators.

The motion passed on the following Roll Call vote:

For: Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzbarger; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer.

Against: None.

CONSIDERATION OF RESOLUTION NO. 2003-18.

(Councilor Ortiz)

A Resolution Rescinding Resolution No. 2000-47 Creating the Santa Fe Regional Juvenile Justice Board and Creating the Santa Fe Regional Juvenile Justice Board Comprising Two Councils: the Leadership and Policy Council and the Youth Development Council.

Juvenile Justice Planner Richard DeMella acknowledged the presence of Judge Barbara Vigil, Children's Court judge and chair of the Regional Juvenile Justice Board; and Ted Lovato, Chief Juvenile Probation Officer for Santa Fe County, and co-chair of the Board.

Mr. DeMella stated that this request, which originated from the members of the Board, would make it easier to obtain quorums for scheduled meetings.

Mr. DeMella said, "What we're trying to do is give high level policymakers the opportunity to integrate current services to address the comprehensive strategy plan that the Santa Fe Regional Juvenile Justice Board has been following. Our second level, our Youth Development Council, would allow community members to offer their expertise on what resources are needed to address the needs of youth in our community."

Councilor Ortiz moved for approval. Councilor Lopez seconded the motion.

Judge Vigil stated that, through this Board, resources have been made available to the school system for the truancy program, which is having some remarkable results in terms of tracking children in the school system and compelling their attendance. She commented that this is just one example of successful collaborative efforts facilitated by the Board.

The resolution was adopted on the following Roll Call vote:

For: Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez.

Against: None.

CONSIDERATION OF RESOLUTION NO. 2003-19.

(Councilor Lopez and Councilor Wurzburger)

A Joint City-County Resolution Concerning Joint Development of a Sustainable Water Supply for the Santa Fe Regional Area.

Councilor Wurzburger moved approval of this resolution as set forth in the Council packet and minus the amendments recommended by the Public Works Committee.

Councilor Lopez seconded the motion.

Councilor Chavez pointed out that this resolution was not distributed at the last City Council meeting as per the Gentleperson's Agreement, and also has gone to only one committee. He said this should not be heard tonight unless it could be considered an emergency.

Councilor Chavez said he supported the concept of the City and County working together, but could not support this resolution unless the following language was omitted as recommended by the Public Works Committee:

Page 2, lines 20-23:

~~Whereas, the city and county see the need to explore possible legal structures within current state law and possible changes to state law that would permit the orderly and efficient transition to a regional water system consistent with the powers and responsibilities granted to the city and county by existing state law and ordinances; and~~

and:

Page 3, lines 10-13:

~~Section 2. The city and county staff are directed to investigate possible legal structures for cooperating to obtain future sources of supply for the region, including investigation of potential changes in state law which would permit use of an existing body or the creation of a new form of entity or entities to carry out this mission.~~

Councilor Chavez stated that the Governing Body should keep in mind that the citizens of Santa Fe agreed to purchase the municipal water system from PNM through a referendum; on that basis, he thought any transition from that should also be approved by the voters affected by this resolution.

Councilor Chavez also objected to language on lines 24-25 on page two stating, "Whereas, state government has given a new emphasis to developing state and regional water plans as rapidly as possible." He pointed out that the City has been working for five years on the Jemez y Sangre Regional Water Plan and has expended about \$1 million on it. He said, "We have not done that plan in a vacuum or hurriedly." He stated that he understood that the regional water plans would be incorporated into a statewide water plan that the Richardson administration has committed to develop over the next year to address the state's needs for the next 100 years.

Councilor Chavez stated that he did not see this resolution as an emergency; and if it were not an emergency, "then this went through a greased pig, and I'd have to question the process."

Councilor Coss agreed with Councilor Chavez that the public should have some say in this, which raised the question of which public that should be.

Councilor Coss said he thought the City's next step should involve negotiations on the wheeling agreement, which would tell the City a lot in terms of the County's position.

Councilor Coss also expressed concern about a memorial to be proposed by Sen. Roman Maes, speaking to a joint City-County water system, because no one has consulted the Governing Body on whether it is interested in that or not. He commented, "I'm starting to feel like there's a few too many fish swimming around in the bottom of the barrel, and we don't know which direction they're swimming and what species they are, and I'm getting nervous about this."

Councilor Coss stated that he was at the Regional Planning Authority meeting last Tuesday, and this resolution was never mentioned, and the next day it was distributed at the Public Utilities Committee meeting "as something we had to do immediately."

Councilor Heldmeyer commented that, while the Council routinely suspends the Gentlesperson's Agreement during Legislative Sessions in order to move certain resolutions through as quickly as possible, "the problem with this one is, when we asked what kind of legislation is this tied to, we were told, well, there's a lot of different things.... and one of the sponsors said it's not tied to anything, we just wanted to get it in before February 20 so people in the Legislature would see that we're working together." She stated that Councilor Lopez, one of the sponsors, mentioned at the Public Works Committee that, as an example, legislation was possible that would allow formation of a regional water authority without the vote of the electorate. She commented that Public Works Committee members were surprised and concerned as a result, since there has been no discussion and no public input.

Councilor Heldmeyer noted that the resolution speaks to seeking a different kind of structure for a regional water service, and pointed out that "if we form a regional water service, we bring our water, our infrastructure, our customers and their money into a regional water system, to which the County has very little to offer at this point. That's why we need a tremendous amount of discussion and a tremendous amount of public input on this issue."

Councilor Heldmeyer stated that, while the sponsors might point out that this was only a resolution and did not have the force of law, she saw it as an attempt "to get the foot in the door, of trying to say we want to go forward with a regional water authority."

Councilor Lopez said there was no "bogeyman behind the door." In addressing the reason behind the resolution, she said she regularly hears frustrations expressed by citizens over the City's apparent inability to deal with the water crisis. She stated that, as would be revealed in the upcoming budget hearings, the City is in no condition to cover the cost of improvements to create a sustainable water system.

Councilor Lopez stated that, in discussions with Congressman Udall and Senators Bingaman and Domenici, "I have repeatedly been asked, why don't the City and County

get together so that we can fund you jointly on this?" She said this resolution would begin that discussion.

Councilor Lopez remarked that City and County staffs discuss the need to work together to avoid duplication of efforts.

Referring to Councilor Heldmeyer's concerns about remarks she purportedly made at the Public Works Committee, Councilor Lopez said she had remarked that perhaps the law creating a water district, which requires 25% of the electorate to sign a petition in order to go to a vote, needed to be changed. She said she should have pointed out, however, that the City-County Joint Solid Waste Management Agency Board has six members – three City Councilors and three County Commissioners – and this has created problems with the City being outvoted or else seeing votes fail because of a tie. She commented that some people have recommended that a new structure be considered, with three City representatives, three County representatives, and three appointed by the Governor.

Councilor Lopez said these and other ideas are being explored, but pointed out that none of them was in writing, and that the purpose of this resolution was to start dialogue. She remarked, "Maybe if we could get out of our myopic vision, we could find a way to get the water that this community needs, to get the water that county residents deserve as well, and do it a way that doesn't cause rates to skyrocket in this community. And the most available method for doing that is for the County and City to come together.

"This resolution doesn't say we will specifically do this or that. It says that we will talk.... Quite frankly, if every time a new water source is available and this Council has to go through complete debates and hearings to be able to act on it, I can guarantee you that the drought years ahead are going to continue to be rough."

Councilor Lopez pointed out that she did in fact distribute this resolution to several members of the Council at the last meeting, and that she planned to introduce a resolution later this evening urging development of a water budget for the Santa Fe regional area by the RPA.

Councilor Bushee moved that the Public Works Committee amendments (to delete the language as noted) be approved. Councilor Chavez seconded the amendments.

Councilor Bushee cautioned Councilor Lopez in speaking regionally, "because what we're really looking for, and continue to seek from the Regional Planning Authority, is a land use plan that can be matched to sustainable resources for the five-mile area.... We've yet to see that plan. We know the City has invested over \$100 million in its utility, and with some strain and stress has operated this utility; and at this point, the dialogue does need to take place at the Governing Body first before you go to the Legislature."

Councilor Bushee stated that, if Councilor Lopez' true intention was to take this resolution forward to show a sense of working together and seeking funds together, she thought that could be aptly done with the language deleted as recommended by the Public Works Committee. She said ongoing dialogue could certainly continue at the RPA and at the Governing Body level.

Councilor Wurzburger withdrew her original motion and accepted the Public Works Committee recommendations as a friendly amendment.

Councilor Wurzburger stressed, "There is no *movida* here. There is no hidden door. The intention was to move us forward with planning. It's clear that any discussion of the word 'structure' is a major freaky button for some of us This resolution was never intended to deal with our existing water systems. It was only from the perspective of looking at new water."

Councilor Pfeffer said he had understood explicitly from Councilors Lopez and Wurzburger at the Public Works Committee and again tonight that there was no hidden agenda and no pending legislation attached to this; and on that basis, he continued to see no useful purpose served in not cooperating with the County.

Councilor Pfeffer stated that he shared the concerns of some other Councilors about process, and had planned to propose adding language to the now-deleted sections stating that no action would be taken without another vote of the electorate.

Councilor Pfeffer said his chief concern was the lack of a new water supply. He stated that Buckman Well #9 is for existing customers, as are Wells 10-13, and the reservoirs have been removed from new growth issues as per the water budget adopted last summer. He stated that he felt growth to be a natural and healthy phenomenon, and that the City would have to find new water somewhere down the line. He commented, "What worries me is that the County knows that, and they are aggressively pursuing water rights and new water wherever they can, whatever their attitude towards growth is.... I'm concerned that, in 2004, 2003, 2007, even with San Ildefonso, we will have not made a dent in terms of the real water demands of this community, and we need to get our act together to do that." He said this resolution, although weakened by the deleted language, was a modest first step.

Councilor Chavez said he continued to see this resolution as premature without discussion by the Regional Planning Authority.

Councilor Coss, a member of the RPA, expressed his commitment to work on this issue at the RPA.

Mayor Delgado stated that the electorate voted to entrust the City with the water system and the delivery of water, "and we have a responsibility to make sure we take care of what's ours. And that's not saying that we're not going to continue to work with the County.... The County is not going to be excluded from this discussion."

The resolution, as amended, passed on the following Roll Call vote:

For: Councilor Pfeffer; Councilor Wurzburger; Councilor Bushee; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz.

Against: Councilor Chavez.

**CONSIDERATION OF RESOLUTION NO. 2003-20.
(Councilor Wurzburger and Councilor Heldmeyer)
A Resolution Supporting State Legislation Allowing all Counties in
the State of New Mexico the Option to Exercise a Local Election
Imposing a Local Option Liquor Excise Tax.**

Councilor Heldmeyer stated that Rebecca Frenkel has been monitoring the Legislature and has brought this to her attention and Councilor Wurzburger's attention.

Councilor Heldmeyer moved for approval. Councilor Wurzburger seconded the motion, which passed, as amended, on the following Roll Call vote:

For: Councilor Wurzburger; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz.

Against: None.

Abstaining: Councilor Pfeffer. [Not present during discussion.]

**Request for Approval of Two Sole Source Purchases for Buckman
Emergency Supplemental Wells #10-13 Project:**

**a) Special Control Valves for Operating the New Well Pumps:
ClaVal.**

b) PNM for the Purchase of:

- 1) Utility Primary Switches;**
- 2) Metering Equipment;**
- 3) Transformers.**

Water Resources Projects Coordinator Rick Carpenter stated that the project schedule for Wells 10-13 has been considerably accelerated, and the stakes were quite high that this project be online in time to meet summer peak demand. He said some of the equipment in these sole source purchases required a lengthy lead time in order to fill the orders from the vendors — months in some cases — and so they had to start soon. He stated that some of the facility components were fairly specialized in nature, as well.

Mr. Carpenter therefore requested the sole source purchase of 12 control valves from ClaVal at an approximate cost of \$31,600; and the sole source purchase of electrical equipment from PNM with an approximate cost of \$39,000.

Councilor Ortiz said that, when staff approached him (as chair of the Public Utilities Committee) and asked to have this go to the Council, he thought the findings were sufficient enough to have this as an emergency and as a sole source procurement.

Councilor Ortiz moved for approval. Councilor Bushee seconded the motion, which passed on the following Roll Call vote:

For: Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger.

Against: None.

CONSIDERATION OF RESOLUTION NO. 2003-21.

A Resolution in Support of the City of the Santa Fe's Intention to Act as the Fiscal Agent for the Santa Fe Farmers Market Institute to Achieve the Establishment of a Permanent Site.

Councilor Lopez stated that she recently learned that the Farmers Market could not get their funding because of a problem with the Anti-donation Clause, and through this resolution she was proposing that the City act as fiscal agent for the Farmers Market Institute to achieve the establishment of a permanent site.

Councilor Lopez moved for approval. Councilor Wurzburger seconded the motion.

Responding to questioning from the Council, Farmers Market president Don Bustos explained that there were two bills before the Legislature in support of the Farmers Market, one for \$1.2 million in capital outlay for phase one construction, and the other for \$120,000 for project management.

Councilor Chavez stated that individual tenants on the Railyard are all asking for legislative money, and the City will also need money to do infrastructure and other things to support the tenants, so he hoped that could be kept in perspective in terms of the importance of implementing the overall master plan.

Mr. Bustos assured Councilor Chavez that the Farmers Market was working closely with the Railyard Corporation and vice versa.

Councilor Chavez said he understood the Farmers Market no longer accepts food stamps, and Mr. Bustos clarified that the USDA does not allow farmers markets to accept food stamps anymore, but WIC (Women and Infant Children) checks are accepted.

Councilor Chavez said he would encourage the Farmers Market to figure out ways to help low income and fixed income people continue to benefit from the Farmers Market.

Councilor Heldmeyer asked City economic development planner Steve Whitman if adopting this resolution would put the City at a disadvantage, given that the Farmers Market is going after capital money and the City is going after capital money for water.

Mr. Whitman responded that he believed that all of the capital funding was from the Severance Tax bonds, and while in some sense it could be considered as coming from the same pot, each representative or senator was given a pot of money to allocate.

Councilor Chavez commented that this resolution put the Council in an awkward position because it was not among the City's lobbying priorities. He said the City should stay focused on its own priorities and limited resources and funding available for those priorities. He said he hoped the Farmers Market would be successful nonetheless.

Mr. Bustos stressed that the Farmers Market was doing the legwork and lobbying and was only asking the City to act as fiscal agent. He said he realized that the City Lobbyist would not be lobbying on behalf of the Farmers Market in this endeavor.

Councilor Wurzbarger recalled that, in the previous resolution for the Railyard, she and staff spoke with the City Lobbyist, who informed them that he did not see it as competition even though it was from the general fund.

Councilor Lopez reminded the Council that, in its initial discussions with its lobbyist, it was agreed that water was the priority, "but should any of our local legislators have a project that they felt compelled to fund, we certainly would support them in their efforts."

The resolution passed on the following Roll Call vote:

For: Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzbarger; Councilor Bushee.

Against: None.

CONSIDERATION OF RESOLUTION NO. 2003-22.

(Mayor Delgado)

A Resolution Authorizing the City of Santa Fe to Seek Legislative Approval From the State of New Mexico to Enable the City to Adopt a One Percent (1%) Special Use Tax on the Cost of All Lodgers' Overnight Accommodations for the Limited Purpose of Building a New Civic and Convention Center.

Councilor Lopez moved for approval. Councilor Wurzbarger seconded the motion.

Mayor Delgado noted that the Lodgers Association was united in supporting this 1% special use tax, which would sunset upon completion of the civic center. He said this tax, which would yield a projected \$1 million annually, would avoid the prospect of dipping into the General Fund; furthermore, the revenues from the tax would allow bonding of up to \$14 million annually.

Mayor Delgado stated that he was introducing this resolution on an emergency basis tonight because February 20 is the last day the City can submit bills to the Legislature.

Councilor Chavez observed that the resolution called for the City to undertake what actions were necessary to introduce a bill authorizing the 1% special use tax, and thought this would be more appropriately done by the lodging industry or the Chamber of Commerce.

Mayor Delgado explained that the lodging industry was asking the City to introduce the resolution on their behalf, since the civic center is a City project. He said the lodging industry would do the legwork and lobbying.

Councilor Heldmeyer proposed the following addition to page 2:

Whereas, the City wishes to provide an equitable division of Lodgers Taxes between different types of lodging establishments;

Councilor Heldmeyer explained that a bill currently in the Legislature calls for a special assessment of \$2.50 per night per room, and she thought that would be inequitable because percentage-wise it would hurt small establishments more than it would hurt the large downtown establishments, and it would be the large establishments that would benefit more from a new civic center.

The amendment was accepted as friendly.

Councilor Heldmeyer proposed the following addition to page 2:

Whereas, any actual increase in a special use tax for Santa Fe must be approved by the governing body;

The amendment was accepted as friendly.

Councilor Bushee proposed the following amendment to line 11, page 2, under the Now, Therefore, Be it Resolved section:

...that the City undertake such actions as necessary and appropriate to support the introduction by the lodging industry to introduce into the current legislative session a bill....

The amendment was accepted as friendly.

The resolution, as amended, passed on the following Roll Call vote:

For: Councilor Coss; Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger; Councilor Bushee; Councilor Chavez.

Against: None.

MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION

Discussion of Threatened Litigation Resulting From City Council Action in Case #AB-2002-04 Regarding Appeal of the Board of Adjustment's Approval of a Special Exception for Physicians Medical Center; Pursuant to Section 10-15-1 (H) (7) NMSA

City Attorney Bruce Thompson asked the Governing Body to go into Executive Session to discuss the above-cited matter.

Councilor Lopez so moved. Councilor Ortiz seconded the motion, which passed on the following Roll Call vote:

For: Councilor Heldmeyer; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger; Councilor Bushee; Councilor Chavez; Councilor Coss..

Against: None.

[The Governing Body went into Executive Session at approximately 6:30 p.m. and came out of Executive Session at the beginning of the Evening Session.]

The Evening Session of the City Council Meeting was called to order at approximately 7:30 p.m. in City Hall Council Chambers. Following the Pledge of Allegiance and Invocation, Roll Call indicated the presence of a quorum, as follows:

Members Present:

Mayor Larry A. Delgado
Councilor Carol Robertson Lopez, Mayor *Pro Tem*
Councilor Patti J. Bushee
Councilor Miguel M. Chavez
Councilor David Coss
Councilor Karen Heldmeyer
Councilor Matthew E. Ortiz
Councilor David Pfeffer
Councilor Rebecca Wurzburger

Members Excused:

None.

MOTION TO COME OUT OF EXECUTIVE SESSION

Councilor Heldmeyer moved to come out of Executive Session, and that nothing was discussed in Executive Session except that which was on the Agenda. Councilor Lopez seconded the motion, which passed 6-0 by voice vote, with Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Pfeffer and Councilor Wurzburger voting for, and none against. [Not present during this action: Councilor Bushee; Councilor Ortiz.]

PETITIONS FROM THE FLOOR

Ann Gorges

Ms. Gorges, a resident of El Seville Apartments, said she had presented a petition to the City Council on January 8 on behalf of the El Seville Residents Association, requesting that the Business Capital District Plan include affordable housing and affordable rentals. She noted that the Council will be considering ordinances on February 26 that will include the BCD in the Housing Opportunity Program, so that projects located in the BCD in the future will require affordable units.

Speaking in favor of these ordinances, Ms. Gorges stated that affordable housing occupants are the people who live in Santa Fe year round and often give back to the community by supporting its churches and schools and by doing volunteer work.

Amy Bunting

Ms. Bunting thanked the Council for passing a resolution opposing a unilateral preemptive strike on Iraq. She urged the Council to stand by its decision; as of today, 83 cities and counties have passed similar resolutions and 90 other cities have resolutions pending.

Ms. Bunting stated that Santa Feans Virginia Miller and Linda Hibbs would join other delegates tomorrow in presenting their cities' resolutions to the White House.

Patrick White

Mr. White asked the Council to consider constructing pedestrian bridges in some areas of town where traffic is so busy that people are endangered when they try to cross the street.

Faris Rezeveck

Ms. Rezeveck stated that she lives near Cerrillos/St. Francis and has used a bicycle for many years not just in Santa Fe but also in other cities, including Seattle and Chicago. She said she has biked over 10,000 miles in the past seven years in these cities and considers herself a seasoned and committed bicyclist.

Ms. Rezeveck stated that a vehicle on Agua Fria struck her in June 2000. She stated that her bicycle was destroyed. She commented that the hardest thing about her commute is the lack of a continuous safe route. She said the City has had a Bikeways Master Plan for ten years that has not been implemented, and asked the Council to consider dedicating monies to allow that.

Charlie Griego

Mr. Griego, 1280 Maes Road, said he was very disappointed with the City Council for its failure to fulfill its promises to the citizens, including guaranteeing them good jobs with good pay. He stated that he was tired of hearing this and questioned where the City would find the money.

Mr. Griego said he planned to run for Councilor Chavez's City Council seat in the next election.

APPOINTMENTS

Immigration Committee

Mayor Delgado recommended the reappointments of Jewel Cabeza de Vaca, Elvira Segura, Maria Cristina Lopez, Gloria M. Nieto (Chair), Erwin Julian Rivera, and Betty Jean Shinas; and the appointments of Marcella Diaz, Bernie Garcia Baca and Erik J. Mason, all terms ending 2/2005.

Councilor Lopez so moved. Councilor Chavez seconded the motion, which passed 6-0 by voice vote, with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez and Councilor Pfeffer voting for, and none against. [Not present during this action: Councilor Ortiz; Councilor Wurzbürger.]

Children and Youth Commission

Mayor Delgado recommended the appointment of Adelma Aurora Hnasko to fill an unexpired term ending 1/2004.

Councilor Bushee so moved. Councilor Lopez seconded the motion, which passed 6-0 by voice vote, with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez and Councilor Pfeffer voting for, and none against. [Not present during this action: Councilor Ortiz; Councilor Wurzbürger.]

Human Services Committee

Mayor Delgado recommended the reappointments of Joe Auburg, Marizza Montoya-Ganzel, Rosemary Gonzales-Nielsen, Betty Ann Rose and Lydia Zepeda-Jennings; and the appointments of Troy Fernandez and Guillermo Brito, all terms ending 3/2004.

Councilor Heldmeyer so moved. Councilor Chavez seconded the motion, which passed 6-0 by voice vote, with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez and Councilor Pfeffer voting for, and none against. [Not present during this action: Councilor Ortiz; Councilor Wurzbürger.]

Sustainable Santa Fe Commission

Mayor Delgado recommended the appointment of Camille Bustamante to fill an unexpired term ending 4/2005.

Councilor Bushee so moved. Councilor Lopez seconded the motion, which passed 7-0 by voice vote, with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz and Councilor Pfeffer voting for, and none against. [Not present during this action: Councilor Wurzbürger.]

Arts Commission

Mayor Delgado recommended the reappointment of Bernard Rubenstein, and the appointments of Christine Louise Carey, Michael Dellheim, Herman Lovato, Dolly Naranjo Neikrug, Ruth Alpert and Marilyn Batts (Chair), all terms ending 10/2004.

Councilor Lopez so moved. Councilor Heldmeyer seconded the motion, which passed 8-0 by voice vote, with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz and Councilor Pfeffer and Councilor Wurzbürger voting for, and none against.

Mayor's Youth Advisory Committee

Mayor Delgado recommended the appointment of Councilor Karen Heldmeyer as Council Liaison.

Councilor Ortiz so moved. Councilor Bushee seconded the motion, which passed 8-0 by voice vote, with Councilor Bushee, Councilor Chavez, Councilor Coss, Councilor Heldmeyer, Councilor Lopez, Councilor Ortiz and Councilor Pfeffer and Councilor Wurzbürger voting for, and none against.

PUBLIC HEARINGS

Request From Kui Zhang for a Restaurant (Beer & Wine) License to be Located at the New China Super Buffet, 3006 Cerrillos Road.

City Clerk Yolanda Vigil called attention to staff's recommendation that it be noted that the New China Super Buffet is required to comply with the City's litter and noise ordinances as a condition of doing business in the City.

There was no public comment.

Councilor Ortiz moved for approval. Councilor Lopez seconded the motion, which passed on the following Roll Call vote:

For: Councilor Lopez, Councilor Ortiz, Councilor Pfeffer, Councilor Wurzbürger, Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer.

Against: None.

CONSENT CALENDAR ITEM POSTPONED FROM AFTERNOON SESSION:

k) Request for Approval – Nonexclusive Cable Television Franchise Agreement; Comcast Cablevision.

Councilor Heldmeyer noted that this item was removed from the Consent Calendar to allow time to develop additional language to include in the Comcast franchise

agreement. She explained that Comcast was recently involved in a controversy where they refused to allow the airing of certain political advertising during certain hours.

Comcast attorney Nancy Long proposed the following language for insertion in the franchise agreement:

Comcast shall comply with all applicable rules, regulations, ordinances and laws related to commercial and political speech in determining advertising sales.

Councilor Lopez moved for approval, as amended. Councilor Heldmeyer seconded the motion.

Councilor Heldmeyer asked City ITT director Rick Carlisle to monitor this to determine if any issues “along these lines come up in Santa Fe, in which case we may need to talk to Comcast about it again.”

The motion for approval, as amended, passed on the following Roll Call vote:

For: Councilor Ortiz; Councilor Pfeffer; Councilor Wurzburger; Councilor Bushee; Councilor Chavez; Councilor Coss; Councilor Heldmeyer; Councilor Lopez.

Against: None.

PUBLIC HEARINGS (Cont’d)

Case #AB-2002-04. Rodeo Business Park-South, End of Rodeo Park Drive East. An Appeal by Mark Basham, Esq., Agent for St. Vincent Hospital, St. Vincent Auxiliary, and Su Vida Regarding the Board of Adjustment’s October 16, 2002 Approval of a Special Exception and Master Plan to Permit a 42,000 Sq. Ft. Twenty (20) Bed Acute Care Medical/Surgical Hospital Re: (Case #SE-2002-06), and Dismissal of the Governing Body’s Request to Review the Planning Commission’s Final Order in Case #M 2002-18, Physicians Medical Center. (Postponed at January 29, 2003 City Council Meeting.) (PUBLIC HEARING CLOSED)

Zoning Review Specialist Eddie J. Romero reported as follows: “There were two actions recommended by staff at the last public hearing. The first is to consider rescinding the Governing Body’s request to review the Planning Commission’s final action; and the second is to carry the conditions over from the Planning Commission and the Board of Adjustment if the decision of the Council is to uphold the Board of Adjustment’s decision.”

Councilor Ortiz disclosed that he is the attorney for the hospital employees and technical employees at St. Vincent Hospital, and based upon advice given by the City Attorney to him in executive session, and in order to avoid complicating this case

given the potential for litigation in the future, he would recuse himself from any further deliberations or considerations in this matter.

Councilor Chavez disclosed that his wife is an employee of St. Vincent Hospital; and for the reasons stated by Councilor Ortiz, he would also recuse himself.

City Attorney Bruce Thompson noted that a decision of the Council in this matter would require five votes.

Councilor Coss said he had submitted a series of questions based on discussion at the meeting two weeks ago and had received responses this afternoon from both sides, and would read a couple of those questions now.

1) "If a new hospital has the ability to provide emergency services, is there an issue with emergency access or other traffic concerns? It wasn't clear to me that the traffic analysis considered emergency trips, and if parking is limited in the business park and there is on-street parking, is this an issue for emergency vehicle movements to and from the hospital?"

City traffic engineer Rick Devine responded that staff did not look at the access in terms of an emergency route, as they were unaware that emergency services were being planned.

Mr. Devine said they measured the road, however, which is 30 feet to edge of pavement, giving room for parking on one side (as exists now) and two lanes of travel. He added, though, that pedestrians presently use the street for access; and if the road is to be considered for emergency access, "it might be prudent to consider sidewalks or ADA accessibility."

Councilor Bushee asked PMC representative Tony Sawtell if there was room on the subject site for expansion.

Mr. Sawtell, who was sworn, said the site is just over four acres and just allows room for the 20-bed hospital, with open space, parking and physical improvements. He stated that any further expansion would be subject to height limitations but to open space requirements, forcing them to install underground parking. He said he did not think that would allow more than half-dozen rooms or so.

Councilor Bushee asked Mr. Sawtell if PMC would agree to a condition stipulating that the hospital be limited to 20 beds.

Mr. Sawtell responded that he could not speak for the other principals in this application, but as a practical matter it would be extremely difficult to further expand the hospital anyway because it "just barely fits on the site as it is." He said he would also be reluctant to agree to a condition that would run with the land in perpetuity in terms of the ability of the hospital to address future conditions and needs.

Councilor Bushee asked Mr. Sawtell if she understood correctly that PMC would provide some kind of emergency care but no ambulance deliveries.

Mr. Sawtell responded that PMC did not intend to operate a trauma center. He said St. Vincent Hospital already provides a very good regional trauma center and people who are seriously injured in an auto accident or otherwise should go there. He said PMC would have an emergency department, as required by state law, and thought it would be proportionate to the size of the hospital. He noted that St. Vincent Hospital has approximately one ER bed for every seven available licensed beds, so PMC might have roughly three beds in its emergency room, although perhaps the actual number might be two or four or any other number. He added, "It will be less than a full trauma center. It will be urgent care and perhaps more than urgent care, but we're not going to try to equip a full trauma center in the middle of a 20-bed hospital."

Mr. Sawtell also indicated that the state licensing requirements, which are 63 pages long, require an emergency department for hospitals, with specific regulations if there is a specific emergency room. He commented that the requirements are vague, though. He said the Department of Health looks at the overall situation and then decides on the appropriate level of emergency care given the nature of the facility and the community involved.

Councilor Bushee asked if PMC representatives have spoken with the State on what PMC's commitment might be in terms of trauma/emergency care, and Mr. Sawtell responded that the consultants, Rockwall Hospital Corporation, have held meetings with the licensing authorities at the Department of Health, but he did not know the details of the discussions.

Councilor Heldmeyer noted that PMC proposes to have an "emergency area," but that patients are expected to arrive by private vehicle rather than by ambulance. She asked Mr. Sawtell to comment.

Mr. Sawtell responded that he expected this would be the case because PMC would not be set up to handle cases that need to be transported on an acute care basis by ambulance. He commented that, based on his own observations from his office across the road from St. Vincent, the vast majority of people going St. Vincent's emergency room appear to arrive by private automobile rather than by ambulance.

Mr. Sawtell added, "We'll be conferring, when we get the details and the building worked out, with the emergency medical technicians, the ambulance companies, the Fire Department, to look at the services we have available and let them make a call about what's appropriate to bring to us."

Councilor Heldmeyer commented that not everybody who arrives in an ambulance is a trauma case.

Mr. Sawtell said that was true; it might be a stroke case. He stated that St. Vincent has concentrated on cardiology in recent years, so that would be the appropriate place for a stroke victim to go.

Councilor Heldmeyer asked Mr. Sawtell what kinds of emergencies would be appropriate to come to Physicians Medical Center, then, and Mr. Sawtell responded that he thought PMC could address anything that St. Vincent Hospital's urgent care center addresses, e.g., household accidents, burns, cuts, on the job accidents, chronic pain situations where the doctor instructs the patient to go to the ER and get a shot of Demerol, and the like.

Councilor Heldmeyer asked Fire Department medical officer Andy Kiley if any of the situations mentioned by Mr. Sawtell have involved transportation by ambulance, and Officer Kiley responded that the list of emergencies typically transported by ambulance includes "everything from a sick call to cardiac arrest." He added, "I certainly agree with the comment that St. Vincent is a cardiac center. It has a cardiac catheterization lab and also handles trauma. But certainly there are a great number of people that arrive with overdoses, with certain illnesses, some of them not specific at that point, and it is our expectation when a patient is transported into an emergency room that they are there for stabilization under what the federal regulations require as far as stabilization and nondiscrimination financially."

Officer Kiley also stated that PRC regulations require that a patient being transported by ambulance be taken to "the closest appropriate facility." He said that is typically a recognized emergency room with recognized emergency physicians and staffing.

Councilor Heldmeyer asked if the closest appropriate facility might be a second hospital, and Officer Kiley responded that it absolutely would — if someone were intoxicated or suffering from abdominal pain, for instance, they would be transported there. He said that, if the hospital is a Medicare hospital, it has to comply with the 1986 Emergency Medical Treatment and Active Labor Act (EMTALA) that stipulates the hospital must appropriately assess and stabilize a patient before transfer. He said the stabilization could involve surgical intervention and ICU. He stated that a non-Medicare hospital would not have to follow these guidelines.

Councilor Heldmeyer commented that there are some things St. Vincent can do that PMC will not be able to do, and Officer Kiley responded that anyone with chest pain or trauma would certainly benefit from going to St. Vincent Hospital, which is equipped for that.

Responding to questioning from Councilor Wurzbarger, Officer Kiley said a hospital applying for Medicare reimbursement is designated a Medicare hospital by the federal government, and the hospital then is liable under EMTALA.

Councilor Wurzbarger said that, based on Mr. Sawtell's list of emergencies that PMC could treat, it would appear that some of these would in fact be transported by ambulance, and Officer Kiley said that was correct.

Councilor Wurzbarger asked Mr. Devine to repeat his remarks about ambulance accessibility to the proposed hospital.

Mr. Devine responded that 20 feet is the minimum requirement for emergency access. He said staff measured the width of the pavement in three places along Rodeo Park West and East, and from edge of pavement to edge of pavement it was about 30 feet, which would give two 11-foot driving lanes, one in each direction, and parking as it exists now, which is on one side.

Mr. Devine reiterated his earlier remarks that currently pedestrians walk in the street, which could present a potential safety issue with an emergency access route or any other route, for that matter.

Councilor Heldmeyer asked Mr. Devine if he observed pedestrians when he was measuring the road, and Mr. Devine responded that staff was there for about an hour around lunchtime, and observed "probably six pedestrians."

Councilor Heldmeyer asked Fire Marshal Ted Bolleter to describe the minimum standard for City emergency routes.

Mr. Bolleter responded that none of the roads in Rodeo Park is considered an emergency response route. He said they could be characterized more as collectors. He stated that a 20-foot lane is required on any type of residential or commercial street to accommodate fire trucks. He said the closest emergency response route would be Rodeo and Sawmill.

Councilor Heldmeyer asked Mr. Bolleter if he has ever been asked before to consider an emergency route configuration for a new hospital, and Mr. Bolleter responded that he has not, adding that there are no Fire Code provisions for that. He stated that the Fire Code is concerned with getting ambulances and fire trucks to a building to render aid for a particular emergency.

Responding to further questioning from Councilor Heldmeyer, Mr. Devine said staff did not analyze Rodeo Park West or East as an emergency access. He said the supplemental traffic study supplied to staff took into account a 42,000 square foot hospital with ITE trip generation rates, so hospital traffic was taken into account. He said he was not sure that included ambulance trips, but thought it did.

Councilor Heldmeyer asked Mr. Sawtell why he took the position that ambulances would not be accessing this building.

Mr. Sawtell responded, "I didn't expect a majority of the traffic to come by ambulance, frankly. It's possible, but that is not what we expect."

Councilor Heldmeyer asked what provisions have been made in the hospital plans for ambulance access, and Mr. Sawtell responded that an access specifically designed for ambulances has been included for the emergency department.

Councilor Heldmeyer remarked that the PMC plans state that patients will arrive by private car, so gives the impression that ambulances will not be going there.

Mr. Sawtell responded that he still believed it would be rare for ambulances to arrive there. He added, "I think when we have the details of the service worked out, and sit down and show what services we'll be providing, we are about a mile from St. Vincent, I think that in the case of most ambulance cases, they will be taken to the trauma center at St. Vincent."

Councilor Heldmeyer expressed concern about enforcement of on-street parking. She stated that there are "solid cars" on one side of the road.

Mr. Sawtell responded that this was the case on Rodeo Park Drive West, but late this afternoon he observed only seven cars parked on one side of Rodeo Park Drive East, and they were not posing any problem for traffic going either way. He commented that this was far fewer than one would observe on both sides of Hospital Drive north of St. Michael's.

Responding, Councilor Heldmeyer said she visited the area at 10:00 a.m. and again at noon, and the route she took in to get to the parking lot — which she was not sure was East or West — was solid cars all the way up to Open Hands.

Mr. Sawtell responded that this would surprise him, since the only time he has seen cars parked on Rodeo Park Drive East is in front of the Eye Associates so-called "Red Eye Building."

Councilor Heldmeyer commented that she hadn't seen very many cars in front of Eye Associates, but she did have staff take photographs, and their observations were the same as hers — that the one lane was essentially a solid line of cars and that there were pedestrians walking in the street. She said this effectively left one lane open.

Councilor Heldmeyer asked Mr. Sawtell if PMC plans to make any accommodations in terms of either providing pedestrian access or limiting on-street parking in order to create two fully open lanes of traffic to the facility at all times.

Mr. Sawtell responded that he hasn't discussed this with the Rodeo Business Park Owners Association; furthermore, this issue has not come up before tonight's hearing.

Mr. Sawtell asked that three letters to City Attorney Bruce Thompson, dated February 12, 2003, be included in the record. *[Packet submitted herewith as Exhibit "A" to these minutes.]*

Mr. Sawtell pointed out that the gist of one of the three letters to Mr. Thompson was that nobody has appealed any land use issue in this case, which was why he was “a little flatfooted with some of these questions.”

Councilor Heldmeyer said some of these questions were mentioned in general terms in Councilor Coss’s letter, where he was asking specifically about emergency access.

Mr. Sawtell stated that Councilor Coss’s questions were addressed in a study by CKS, LLC (page 310 of the packet), which was based on the Institute of Transportation Engineers trip generation manual, which speaks to average traffic to a generic hospital. He said he assumed the figures included emergency room traffic.

Councilor Lopez pointed out that this was the first public hearing where the Council has had an opportunity to ask questions, and asked the City Attorney if there was some requirement that she submit questions in writing before tonight’s hearing.

Mr. Thompson responded that there was no problem with Councilors asking whatever questions they wished. He said the argument that questions should be prepared for tonight’s hearing was obviated by the questions submitted in writing by Councilor Coss through the City Attorney’s Office. He added that these issues were also raised in the actual packet, which included materials regarding parking, so this was not a new issue. He stated that the applicants themselves raised the issue of the emergency room.

Councilor Lopez stated that she has received phone calls regarding problems at certain hours at the Sawmill/Rodeo Road intersection. She stated that the bridge that goes over St. Francis Drive forces all the traffic on Rodeo Road to narrow itself to two lanes in order to cross the bridge, which was not even adequate for pedestrians. She asked Mr. Devine to comment.

Mr. Devine responded that he was not sure how wide the bridge was, but conceded that it was narrow, allowing only two lanes of traffic and very marginal pedestrian access.

Mr. Devine said the traffic supplemental report analyzed existing traffic at Sawmill/Rodeo and Galisteo/Rodeo, and projected the hospital at 42,000 square feet plus full build-out of the business park, which is about 60% built out at this point. He said the data was compared to the approved business park study done in 1990, and staff determined that it was still below the threshold with the 1990 study.

Mr. Devine stated that, with respect to the Sawmill/Rodeo intersection, “there are some failures out there. I mean, it’s obvious, especially in the evening, I believe it’s the southbound right coming off of St. Francis onto Sawmill and making the right onto Rodeo Road, is failing. There are also some failures I believe in the morning on some of the movements as well.”

Councilor Lopez asked Mr. Devine, “Is this traffic signal on any list for improvements? Would this development contribute to that signal, that failed intersection?”

Mr. Devine responded that staff hadn’t raised that issue, “but that is something that we could look at — the possibility of adding a lane, possibly on Rodeo Park West.”

Councilor Bushee said she had heard PMC representatives state at both hearings that this is to be only a land use hearing, yet Mr. Sawtell had just suggested that no land use issues should be discussed because none was raised. She asked Mr. Thompson if this was a *de novo* hearing and Mr. Thompson responded that it was. He said the Council was permitted to look at any of the issues that the Board of Adjustment could have originally considered, and could expand on any of those issues.

Councilor Bushee suggested that Councilor Coss continue reading his written questions into the record.

Councilor Coss read his second question as follows:

2) “Why was the Rodeo Business Park rezoned to remove Hospital as a permitted use and instead listed as a use that would require a special exception?”

City Planner Greg Smith responded that Hospital use in Rodeo Business Park has been a special exception use continuously since the Code was amended in 1988. He stated that one version of the Code, which was incorrectly codified, erroneously listed Hospital as both a special exception and an “allowed by right” use. He stated that, between 1981 and 1988, it was allowed by right.

Mr. Sawtell responded that hospitals were a permitted use in Rodeo Business Park from the time it was annexed to the City and zoned IP in 1982, until the Code was amended in 1988 by the City Council. He noted that the Council had requested that hospitals be made special exceptions after Hospital Corporation of America attempted to locate a hospital, without any public review, in a C-1 zone.

Appellant representative Mark Basham, who was duly sworn, responded that hospitals are required to seek a special exception because of the nature of their impact on the surrounding area and the community as a whole. He added that surrounding uses should complement a hospital, e.g., doctors’ offices, pharmacies, imaging services and rehab services; but the proposed location of PMC did not have the capacity to accommodate these additional medical uses. He pointed out that PMC claims it will be a full service hospital, yet is not located near a highway or major thoroughfare where it would be easily accessible to the public and emergency transportation; nor was it located on a major bus route that would make it accessible to the poor, elderly, children and disabled. He commented that PMC will be located near the east side of the city “in a small, private cul de sac with one minor access point” as opposed to being on the Southside, where the real population growth is occurring.

Mr. Basham said the lack of a second access point was troublesome. He stated that a second access point would involve the extension of Governor Miles Road, which is part of the City's future road network and comes from a six-year public process involving over 300 citizens and nearly 50 meetings. He stated that City staff nonetheless has not required PMC to dedicate the ROW for the extension; instead, PMC has committed to that dedication at some future time. He pointed out that the Rodeo Business Park Association is strongly opposed to the extension of Rodeo Park Drive East as a frontage road south to Richards Avenue, and doubts that sufficient ROW exists.

Councilor Coss posed the third question:

3) "In the January 14 argument filed by Mr. Herdman, it is stated that the City should not usurp the regulatory power of other governmental entities. Which other governmental entities have regulatory authority in this case and which have assessed the need for this hospital and its relation to the public interest?"

Mr. Thompson responded that "there is no usurpation of anyone else's authority based on what is happening here, and no other governmental body is dealing with the specific issue of the public interest." He said he thought this was consistent with what he had seen in the responses of the other two parties.

Mr. Basham pointed out that this was why a special exception was required for a hospital, also noting that the granting of a special exception is a discretionary act.

Mr. Basham submitted two letters from the appellants. *[Submitted herewith as Exhibits "B.1" and "B.2."]*

Mr. Sawtell responded that PMC was concerned over attempts to regulate what sort of an emergency department the hospital would have, and that has been committed to the New Mexico Department of Health. He stated that PMC was also concerned with suggestions that the Council would attempt to regulate what sort of indigent care the hospital would provide, which has been committed to the counties of New Mexico and not its municipalities.

Councilor Coss posed the fourth question:

4) "In the staff report of May 28, 2002, the hospital would be developed under the more lenient standards chosen from the previously approved Rodeo Business Park Master Plan under the IP zoning versus the current Code requirements under the BIP zoning. What differences in open space, setbacks, parking, landscaping and other features of the development meet the more lenient standards of an Exception rather than code for the current zoning?"

Mr. Smith responded that, as a result of the staff review prior to the Planning Commission and Board of Adjustment hearings, and a more detailed re-review by staff since the Board of Adjustment hearing, "we conclude that the hospital does comply with the applicable code requirements. In the majority of cases, the controlling regulations are found in the Highway Corridor District, which is not subject to this requirement to distinguish between the old IP standards and the new BIP standards. The area which

has received the most discussion from staff is with regard to the landscaping requirements; in that regard, the controlling percentage requirement is from the old Industrial Park standard, which requires 35% of the site area to be landscaped. As the plan is proposed to the Council, 36% of the site area will be landscaped. As the plan might be modified when and if the road is dedicated for the extension of the Governor Miles Road, at that point they would be allowed by code to reduce the landscape requirement from 35% of the site to 25% of the site by providing passive and active water harvesting.

“In the materials submitted by the applicant to the Board of Adjustment and the Council, they have indicated that they do intend to provide that type of water harvesting. So our conclusion is that, as the plan is proposed to the Council tonight, as the plan would be modified when the road extension occurs, in both cases they would comply with the open space requirements.”

Mr. Basham responded that the applicants are required to meet Highway Corridor Protection Plan regulations. He said three plans are in place at the current time, each adopted by different bodies: Regional Planning Authority; Extraterritorial Zoning Authority, and the City Council. He said the Council-approved plan at this location reflects residential use, so it was the appellants’ position that an amendment would be required before hospital use would be permitted.

Mr. Sawtell responded that he did not believe that the Council had adopted the Highway Corridor Protection Plan. He said the Council had adopted the Highway Corridor Protection Overlay District (Section 14-5.5), however, which requires 35% open space for noncommercial use.

Councilor Coss stated that his remaining two questions were asked of staff:

- 5) “What about water availability and water infrastructure to serve a hospital?”

Councilor Coss said his response to this question came from Antonio Trujillo of the Water Division, who was not present this evening. He read Mr. Trujillo’s response as follows:

The infrastructure to deliver the water is available for this development. The anticipated maximum use is 3.3043 acre-feet per year. This development is subject to retrofit requirements in order to offset the water use.

Councilor Coss said his sixth question was asked of the City Attorney:

- 6) “In what ways can a court of appeals decision modify a Supreme Court decision?”

City Attorney Bruce Thompson responded, “The simple answer to that is a court of appeals decision cannot modify a Supreme Court decision. I don’t think there was any direct conflict between the earlier Supreme Court decision and the later court of appeals

decision, which both parties have actually relied on to some extent. I think that there is actually a difference in what was being talked about in the earlier Supreme Court decision, so I just don't think there's any conflict, and there was no attempt by the court of appeals to modify the earlier Supreme Court decision."

Mr. Basham responded that Mr. Thompson was correct. He said *Burroughs*, being a Supreme Court case, controls.

PMC attorney Frank T. Herdman, being duly sworn, responded that, with regard to *Burroughs*, the court of appeals has ruled repeatedly on the issue of whether this would be a legislative proceeding or a quasi-judicial proceeding. Reading from a recent 1996 case decided by the court of appeals, Mr. Herdman noted,

Legislative actions generally reflect public policy in relation to matters of a general nature, as when a determination is made regarding the zoning of a community or entire area without consideration to any particular piece of property.

He also read from this decision that

In New Mexico, zoning decisions involving the application of a general rule to a specific property are not legislative acts; rather, they are deemed to be quasi judicial in nature.

Mr. Herdman also pointed out that the unsatisfied party in this case sought further review by the Supreme Court. He said review by the Supreme Court of decisions rendered by the court of appeals is not automatic: "The Supreme Court decides whether they'll take them or not. If the Supreme Court decides the decision has been rendered in a way that's inconsistent with either prior precedent or some other legal authority, it will take review. In that case, it did not take review. There was a petition for a writ of certiorari, and that petition was denied. Consequently, the Supreme Court in 1996 did not feel that there was any need to correct the decision of the court of appeals in that case.

"Consequently, we submit that based not only on that case, but on additional abundant authority, the proper outcome is that this is a quasi-judicial proceeding which requires the application of the law as stated in the code to the facts in this case, and that there is not unfettered discretion as the appellants would have you believe."

This concluded Councilor Coss's questions.

Councilor Bushee asked Mr. Smith to elaborate on the discussion of the Highway Corridor Protection Plan.

Mr. Smith responded that there are currently three different versions of the Highway Corridor Plan, one adopted by the County Commission, one adopted by the EZA, and a third adopted by the City Council. He said, "It is staff's recollection that it was discussed by the Council the advisability of having the final version of that plan

recognize the Rodeo Business Park. What I cannot testify definitively is whether the Council has in fact voted on a version that includes the Rodeo Business Park, that recognizes the Business Park, or whether they have not yet voted on that version.”

Mr. Smith said there were a number of General Plan amendments, including the Highway Corridor Plan, which have yet to be compiled into a comprehensive update of the General Plan Land Use Map, including the amendment voted on by the Council with regard to the corridor policies.

Mr. Smith also clarified for Councilor Bushee that he had not researched this question for tonight’s hearing because it had not come up before now.

Councilor Pfeffer noted that page 7 of the Board of Adjustment October 16, 2002, minutes indicated that the proposed facility “will house any helicopter or similar facilities,” and asked if this was a typographical error.

Mr. Sawtell confirmed that this was in error and that the sentence should have read that it would not house any helicopter or similar facilities.

Councilor Pfeffer observed that the plans did not reflect a laundry, and Mr. Sawtell responded that he believed laundry services would be contracted out.

Councilor Pfeffer said he did not see any fire exits in the plans, and only saw one stairwell, and Mr. Sawtell responded that he could not comment on that, but pointed out that the design was only schematic at this point. He said the interior floor plans were subject to revision.

Mr. Sawtell assured the Council that all of these details would be carefully checked before PMC applied for a building permit, and the facility would scrupulously comply with all fire and life safety codes.

Fire Marshal Ted Bolleter confirmed that the plans were only conceptual at this point, and a thorough review would be conducted prior to the building permit process that would include imposition of all of the necessary requirements.

Councilor Pfeffer noted remarks by Mr. Basham in the October 16 Board of Adjustment minutes stating that PMC was “a proposed limited service for-profit hospital and that it is not a general hospital as presented to the Board earlier.” He asked how, based on these remarks, the Board of Adjustment came to the conclusion that there was a problem with access and traffic.

Mr. Basham responded by pointing out that PMC’s application indicates that not only would they be a full service hospital, but also that they would take Medicaid patients, which triggers a transfer agreement with St. Vincent Hospital for ambulance service and also requires that they take ambulance service.

Councilor Pfeffer noted a January 21, 2003, memorandum from State Medical Assistance director Carolyn Ingram (page 455 in packet) stating that any new hospitals coming in would have to be a Medicaid provider for one year as well as meet other criteria, with the exception of being located 35 or more miles from other like hospitals. He asked if he understood correctly that, under this requirement, PMC would have to accept Medicaid patients for one year.

Mr. Sawtell responded that this memorandum reflected a 2001 change in the law protecting St. Vincent's and similarly situated hospitals' eligibility to receive "millions of dollars in sole community provider funds" and also allowed a new hospital in town to apply for sole community provider status if it served Medicare-Medicaid patients for one year. He explained that PMC expected to serve Medicare-Medicaid patients, and in fact their pro forma reflects that this particular population will supply about 60% of their revenues. He said this did not by itself require a new hospital to accept Medicare-Medicaid patients, however, but that was PMC's expectation nonetheless.

Councilor Pfeffer asked Mr. Sawtell if PMC's preliminary plans have been submitted to the state licensing and certification office, and Mr. Sawtell responded that they have not because the plans were not ready for review by that agency.

Councilor Pfeffer asked Mr. Sawtell if he would accept, as a condition of approval, that PMC would abide by any required changes of state licensing and certification in addition to any other federal and state law that was applicable.

Mr. Sawtell responded that he would.

Councilor Pfeffer moved to deny the appeal on the basis of the following findings:

- 1. That the Board of Adjustment did include the public interest requirement in its approval; and**
- 2. That, even though the Planning Commission discussion and decision would be vacated, the Board of Adjustment included the Planning Commission conditions in its approval in addition to its own;**

And adding a condition:

That the Physicians Medical Center will make such changes to its plans are required by federal and state law and licensing regulations.

Councilor Wurzbarger seconded the motion for discussion.

Councilor Pfeffer commented that the point of requiring compliance with state and federal law, etc., was to address the issue of ambulances and emergency access. He pointed out, "If one advertises oneself, whether you are or not, as a full service hospital, you're not going to get a license from the state unless you provide certain basic services

such as ER. And as the Fire Department folks have testified, you'd better have the ability to get ambulance access. I would assume that, under the state laws, you're going to need to do that in some form or another."

In terms of the potential for future expansion, Councilor Pfeffer observed that one condition imposed by the Board of Adjustment was that any change in intensity would have to go back to that Board for approval. He said, "So I would assume that, while you may attest here that you have no intention of expanding in the future, *et cetera*, but you wouldn't want your hands tied, I would say your hands may be tied by a future Board of Adjustment decision. In any event, any expansion would have to come back to the Board of Adjustment."

Councilor Pfeffer also stated that his motion to improve included all of the Board of Adjustment conditions, which include all of the Planning Commission conditions, plus this condition.

Mr. Smith said staff had not meant to imply in their staff report that the action of the Planning Commission was being vacated. He said, "We believe that the action of the Commission with regard to their action to approve the development plan does remain in effect." He stated that the Council at one point requested a hearing to consider reviewing the Commission's action on the development plan; but since the Council has taken no further action in the last six months on that, staff intended to show in their report that no further action would be taken with regard to the Commission decision on the development plan application.

Councilor Pfeffer also recommended that the action of the Governing Body, calling for review of the Planning Commission's action, be rescinded.

These amendments were accepted as friendly.

The motion then failed on the following Roll Call vote, lacking the necessary five votes to pass:

For: Councilor Pfeffer; Councilor Wurzbarger; Councilor Bushee.

Against: Councilor Coss; Councilor Heldmeyer; Councilor Lopez.

Recused: Councilor Chavez; Councilor Ortiz.

Mr. Thompson stated that, in light of this result, the decision of the Board of Adjustment would stand. He said the Council could act on a motion to affirm the appeal; and if that failed, the Board of Adjustment decision would stand.

Councilor Pfeffer moved that the action of the Governing Body calling for a review of the Planning Commission's final action be rescinded.

Councilor Pfeffer said he was making this motion to clean up the record because both parties have already agreed to the authority of the Board of Adjustment on the issue.

Councilor Wurzbarger seconded the motion, which passed after Mayor Delgado broke a tied Roll Call vote, as follows:

For: Councilor Wurzbarger; Councilor Heldmeyer; Councilor Pfeffer; Mayor Delgado.

Against: Councilor Bushee; Councilor Coss; Councilor Lopez.

Recused: Councilor Chavez; Councilor Ortiz.

Councilor Lopez moved to uphold the appeal, having heard the evidence and concerns raised with land use issues. Councilor Coss seconded the motion.

Councilor Heldmeyer noted that the special exception criteria in Section 14-3.6(C) stated that the Board of Adjustment “shall determine that the building and such uses are harmonious with and adaptable to buildings, structures and uses of abutting property and other properties in the vicinity of the premises.” She said she thought there were real safety concerns about the location of this particular use in this particular place.

Councilor Bushee said she was concerned about this site “and access to it and also the Highway Corridor Protection aspects and particularly with access, whether or not it’s going to be emergency, traffic, or whether or not just it’s just pedestrian access or parking.” She stated that she hoped Councilors would take those issues into account in their vote.

Councilor Pfeffer said he had included approval by the state licensing agencies in his previous motion because he knew from professional experience that architectural reviews of hospital plans are intense, thorough and complete, and go into all of the safety issues surrounding a building, its site, and everything else, “and is one of the highest hurdles anyone can jump over in terms of plans.” He cited his previous experience as an architect and hospital designer who submitted drawings to state licensing for review, and who “in a former life” was the state architectural consultant who did those architectural reviews. He commented that this was why he raised issues about ambulance access, fire safety exits and so forth.

The motion failed to pass, lacking the necessary five votes:

For: Councilor Bushee; Councilor Coss; Councilor Heldmeyer; Councilor Lopez.

Against: Councilor Pfeffer; Councilor Wurzbarger.

Recused: Councilor Chavez; Councilor Ortiz.

In voting, Councilor Wurzbarger said she disagreed with the findings on which this motion was based, and agreed with the findings of the previous motion.

Based on the results of the vote, Mr. Thompson stated that the Board of Adjustment's decision would therefore stand.

Case #M-2001-59. Las Soleras General Plan Amendment. Jim Siebert and Linda Tigges, Agents, Request Amending the Future Land Use Diagram of the Santa Fe General Plan and the Santa Fe Metro Highway Corridor Plan for the Area of 711± Acres Located South of the Southern City Limits Boundary, North of Interstate 25, Between NM 14 (Cerrillos Road) on the West and Richards Avenue on the East, to Designate the Area With a Mix of Uses to Include Low Density Residential (3 to 7 Units Per Acre), Medium Density Residential (7 to 12 Units Per Acre), High Density Residential (12 to 29 Units Per Acre), Community Commercial, Business Park, Office, Mixed Use/Transitional, Regional Commercial, Public/Institutional, Neighborhood Commercial, Open Space and Parks. The Planning Commission at Their Meeting of May 31, 2002 Recommended Approval of This Case With Staff Recommendations. (Postponed at January 29, 2003 City Council Meeting)

City Planner Ron Quarles reported as follows: "This is an application that has been submitted on behalf of six property owners to amend the adopted 1999 Future Land Use Map for an area of nearly 711 acres south of the city limits. The applicant proposes changes to the circulation and land use patterns with the intent of future annexation and zoning applications.

"At a public hearing held on May 30, 2002, the Planning Commission voted to recommend changes to the General Plan based on staff alternative, included in your packet. Since the Planning Commission hearing, the applicant submitted to staff a couple of weeks ago a change to their request from the consideration by the Planning Commission. Staff included those changes to the City Council for your packet for this evening's hearing. You'll find this submittal as Exhibit K on page 198A.

"A series of early neighborhood notification meetings were conducted in December of 2001. The applicant also conducted follow up meetings with the neighborhood. Prior to the May hearing, the applicant presented the request to the Planning Commission at a study session held on March 14 and a field trip on March 22. An ad hoc committee of the Nava Adé Homeowners Association has submitted concerns and recommendations of the neighborhood. That information has been submitted in your packet with a letter from the Richards Avenue South Neighborhood Association, supporting the recommendations of the ad hoc committee.

“Action to amend the General Plan also constitutes action to amend the adopted Highway Corridor Plan. The Las Soleras Plan falls within the boundaries of the Santa Fe Metro Area Highway Corridor Plan adopted by the EZA on May 30, 2000, and passed and approved by the City Council, with changes, on July 26, 2000. The Corridor Plan establishes a minimum critical setback for development based on measured noise contours along the Interstate corridor. By placing parkland and open space along the Interstate, the Las Soleras request adheres to the established setback, which ranges from approximately 150 feet to 375 feet from the Interstate right of way. For the most part, the Highway Plan adopted by the City shows noncommercial uses along the Interstate frontage. The Las Soleras proposal, however, differs from the City Council adopted plan by reducing the open space area designated within the 100-year flood plain and by establishing Business Park along Richards Avenue and Neighborhood Commercial at the center of the area.

“The Las Soleras plan will have significant impacts on the adjoining exterior roadways, primarily Cerrillos Road, Richards Avenue and Rodeo Road. Over the projected 20-year build out period, the proposed plan amendment reserves adequate right of way for possible street widths. The City traffic engineer will require detailed traffic impact studies of the network as conditions of future annexation and zoning submittals.

“The Planning Division has estimated water usage of 731 acre-feet per year for this development at build out. Future development proposals within Las Soleras, along with other long-term developments that will occur, will be affected by the anticipated water policies addressing the cumulative impact of growth. At present, the implementation of water retrofits will be required if the area is incorporated and developed when applications are submitted.

“Although the Las Soleras plan reflects a change to the pattern of uses in the 1999 plan, it has retained features that are similar to the 1999 plan. They include a neighborhood commercial center at the central location within the plan area. A business park development continues to be emphasized north of the Interstate and along Richards Avenue. Residential densities continue to increase from south of Nava Adé towards the Interstate and open space and parkland is still established along the Interstate frontage road.

“Staff analysis of this request is based on the appropriateness of the mix and pattern of land uses and the thoroughfare network in relation to the City’s general policies and planning framework. From this perspective, staff’s recommendation is based on whether the change to the General Plan is appropriate for the long-term future. In general, staff supports the circulation pattern and mix of land uses established by the Las Soleras plan. The arrangement of land uses and the thoroughfare connections are an improvement over the existing adopted plan. The street network distributes traffic more evenly and the pattern of land use is generally well thought out.

“However, staff does differ from the applicant’s latest submittal in three specific areas.

“First, generally along the Cerrillos Road corridor, the first difference between the staff alternative and the applicant’s request is the lack of a transition away from the Cerrillos Road commercial uses. A transition of uses should occur between the commercial uses along Cerrillos Road and the residential uses to the east, because the existing grades of the future commercial uses rise above residential uses, and as staff has determined that the arroyo separation will not serve as an adequate visual buffer.

“Staff recommends that the business park along Cerrillos Road be extended southward to the rear of the commercial uses as a means to separate the commercial intensity from the low density residential neighborhood that is proposed. The newly adopted BIP District is intended to allow moderate to low intensity industrial and business park uses capable of being located next to commercial and residential areas, but with minimum buffering.

“Mixed uses are also recommended as a continued transition to the medium and high density residential uses to the east. The mixed-use category would allow for a variety of uses, including live-work arrangements similar to The Lofts development along another section of Cerrillos Road.

“With the most recent submittal by the applicant, a strip of mixed uses is proposed along the arroyo. Although we agree with the mixed use designation, staff has concerns that the limited depth of 150 feet of mixed use extending for about 2,000 feet may not be adequate in terms of providing a mix of uses encouraged by that land use category.

“The second area of difference between the proposal and staff’s alternative is the reduction in the arroyo open space. Staff questions any attempt to alter the open space boundaries for future commercial uses without further engineering study or analysis to demonstrate that this change is necessary. In the report to the Commission and City Council, staff pointed out that the arroyos and the flood plains must provide for wildlife corridors and habitat as well as trail easements. The General Plan as adopted supports that position.

“In this request, the applicant desires to reduce the open space at Cerrillos Road from approximately 18 acres to approximately 8 acres. Staff cannot support the reduction of open space at this location.

“Recently-adopted changes to the terrain and stormwater management ordinance prevent future subdivisions within flood plain areas, and the regulations are intended to minimize destruction of the natural landscape, including the preservation of riparian and vegetation wildlife habitat.

“At this level of review, attempts to reduce the flood plain or the open space in this area are counter to the intent of the General Plan and the recent legislation adopted by the City Council.

“The third and final difference between staff’s alternative and the proposal is that staff is recommending moving the Office designation from the proposed park south of Beckner Road to the intersection of Herrera and Beckner Road. Office at the staff alternative location not only establishes a transition from the regional commercial activities along Beckner Road, but also provides development opportunities that are not as likely to occur in an isolated mid-block location adjacent to open space and parkland.

“To conclude this presentation, staff supports the requested General Plan amendment with the changes that were noted. Staff recommends that the City Council approve the request to amend the General Plan based on the staff alternative presented in the staff report, and as recommended for approval by the Planning Commission at its May meeting.”

Las Soleras representative John Mahoney was sworn and reviewed the process followed by the proponents in bringing forward this plan as well as attempts made to improve it in terms of traffic circulation, land uses, topography and population density.

Mr. Mahoney read a list of “Seven Principles Agreed to by Las Soleras.” *[Submitted as Exhibit “C” to these minutes.]*

Agent Jim Siebert, who was sworn, gave a power point presentation on the Las Soleras General Plan amendment. *[Submitted as Exhibit “C.1” to these minutes.]*

Mr. Siebert also submitted language for consideration by the Council:

The Arroyo Chamiso 100 year flood plan shall be defined on the General Plan Future Land Use Map by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps as may be amended from time to time by FEMA without the need to amend the General Plan Future Land Use Map.

The office uses located south of Beckner Road, consisting of 4.58 acres, may be relocated and reconfigured at the same or lesser acreage with review by City staff without the need to amend the City General Plan Future Land Use Map.

[Submitted as Exhibit “C.2” to these minutes.]

Mr. Siebert explained that there was considerable discrepancy between the FEMA Flood Insurance Rate Maps and the actual field observation.

Mr. Siebert also explained that, in terms of the second paragraph in his request, one of the landowners had agreed to allow for a park that was not part of the original plan, and they were attempting to provide an offset for her loss of land by adding the office location.

Agent Linda Tigges, who was sworn, distributed letters of support from the Santa Fe Chamber of Commerce and Santa Fe Public Schools. *[Submitted as Exhibits "C.3" and "C.4" to these minutes.]*

Ms. Tigges also distributed a list of the four ENN and other meetings held with the neighborhood, as well as reviewed a list of responses to concerns expressed at the meeting. *[List and responses submitted as Exhibit "C.5" to these minutes.]*

Ms. Tigges stated that complete consensus with the neighborhood was not achieved, adding that new people were moving into Nava Adé all the time and consequently the applicants were not able to meet with all of them.

Ms. Tigges noted that she has been directed by the applicant to start meeting with the State Engineer Office, which has a subcommittee on water conservation and reuse, to begin to develop a model development for them to use for their studies.

This concluded presentations by the applicants.

The floor was opened to public comment.

Speakers were limited to one minute.

Harmon Burttram came forward in favor of this proposal and was sworn. He said his family owned one of the properties. He said he has watched Santa Fe grow to a large town, and development seems to be moving south, and he thought this a "unique opportunity for Santa Fe to be able to work with the development of this area and to provide for a development that is good for the whole city."

Tony Gerlich, founder of the Monte del Sol Charter School, was sworn. He spoke in support of the proposed amendment. He stated that the school would be part of the mixed use strategy proposed by Las Soleras, and would benefit that part of the city.

Anne Condon, 110 Calle Rael, was sworn. She stated that she was present in her capacity as a member of the Southwest Institute (the board supporting Monte del Sol Charter School, which her son attends). She noted that, when she was Planning & Land Use director, Las Soleras representatives worked very closely with staff to bring something in that met the spirit and intent of the General Plan. She said she looked forward to seeing the charter school locate in Las Soleras.

David Brown, general manager of Santa Fe Premium Outlets, was sworn. He said Santa Fe Premium Outlets "is in favor of a well-planned first-quality development near its center. We would ask the City to review the project's impacts, such as traffic, to ensure that the appropriate improvement, infrastructure and conditions are placed upon the development to mitigate the impacts."

Faye Gardner, one of the property owners within Las Soleras, came forward and was sworn. She said they have "gone the extra mile" to provide information to the Nava

Adé community and other area residents, and she would be happy to meet with them individually. She commented that she has sensed some personal antipathy from the residents, which she did not understand, and would like to iron out any personal differences.

Fred Gardner, one of the property owners within Las Soleras, came forward and was sworn. He asked for the Council's support of the amendment.

This concluded comments in favor of the proposal.

Charlie Griego came forward in opposition to this proposal and was sworn. He stated that the voters should be allowed to decide whenever somebody wants to build something in Santa Fe. He commented, "This is a big mistake. We have no water.... This is stupidity."

Richard Lange, spokesperson for the Nava Adé Homeowner Association Ad Hoc Committee, came forward and was sworn.

Mr. Lange distributed a Summary of Recommendations:

- Parks and Open Spaces (which includes Highway Corridor) are reduced by approximately 38 acres and leave no geographically secluded or semi-secluded tracts not bordered by, and exposed to, streets and/or development and their noise.
- High Density Residential Units and Medium Density Units outweigh Low Density Units by 46%, including 513 LDR Units in Nava Ade.
- The 24-acre Business Park north of Beckner, bordering Richards Avenue, is located on land better suited for much needed additional Low Density Residential Units.
- A 98 foot ROW for Beckner Road disregards Arterial Roads Task Force principles and recommendations in general and, specifically, those for Las Soleras. A 6-lane wide arterial poses a significant threat to establishing street-active and vital neighborhoods.
- Replace the 60acre LDR-4 and LDR-5 tract along Governor Miles and east of Nava Ade (consisting of 2 hills) with Open Space to create the only semi-included Open Space tract within the community.
- Replace BP-1 tracts with Open Space.
- Replace the 24-acre Business Park (BP-2) bordering Richards Avenue with much needed Low Density Residential Units.
- Extend Trail and provide Open Space to connect trail systems from Park-2 to Institutional-2 and Park-3 south of Nava Ade.
- Replace half of the 7.5 acre tract MDR-4 with Park-3 which will

preserve the densely forested, steep hill that composes it, and enhance the appeal, and use of, the Neighborhood Commercial Tract.

- Change the 98 foot ROW proposed for Beckner Road to 84 foot, the same ROW designated for Governor Miles Road, to insure it will be a pedestrian-friendly arterial and not another Cerrillos Road.

[Submitted as Exhibit "C.6" to these minutes.]

Mr. Lange also made a presentation expressing concern about aspects of the development and requesting various changes. *[Submitted as Exhibit "C.7" to these minutes.]*

Carol Liebmann, a member of the Nava Adé Homeowners Association Ad Hoc Committee, was sworn.

Ms. Liebmann asked that the Council stay with the General Plan's 74-acre allotment for commercial acreage. She said Las Soleras was proposing over twice that amount, which was excessive in light of the already-existing and planned commercial land use nearby.

Ms. Liebmann stated that the 96-foot ROW being planned for Beckner Road, which was wide enough to accommodate six lanes, was against the recommendations of the 1999 Arterial Roads Task Force.

Ms. Liebmann stated that, out of the proposed 115 acres of open space and parks, more than half was next to I-25 and under power lines. She said she did not think this an advisable place for children to play.

Ms. Liebmann proposed that Beckner be pushed down next to the highway, where the land is already flat, so that arroyos would not need to be dredged and filled for a thoroughfare, and they could be used as more neighborhood-friendly trails and open space. She commented that, while this ran against the dictums of the Highway Corridor Plan, "is the Highway Corridor intended to make Santa Fe look like a good place to live, or be a good place to live?"

Ms. Liebmann stated that there were a few narrow, winding streets in Nava Adé that could become thoroughfares if connected as proposed.

Ms. Liebmann also said, "The building frenzy continues on Santa Fe's Southside. Climatologists are predicting a 20 to 40 year drought for New Mexico.... Under current conditions, our addiction to growth hardly seems a thoughtful strategy for making Santa Fe a place for people to want to come to or stay in."

Steve Burns Chavez, a member of the Nava Adé Homeowners Association Ad Hoc Committee, was sworn. He stated that he was a landscape architect who had worked for the U.S. National Park Service in planning, design and construction for the past 20

years on projects in parks and gateway communities of National Park areas across the U.S.

Mr. Chavez said he played a significant role in the planning and design of the park in the community of Springdale, Utah, which included a \$27 million shuttle transportation system, visitors center, shuttle stops and streetscape, and which has won national awards.

Mr. Chavez said he had shared this information because his experience in planning and design in gateway communities “usually requires a careful consideration of the unique qualities that make these places, like the parks they border, very special.” He commented that people living in gateway communities share the same quality of life concerns as people in Santa Fe do.

Mr. Chavez said Las Soleras, which sits at the front door of Santa Fe, will define the first impression of Santa Fe to visitors arriving on the Interstate from the south. He commented, “In its current configuration, although an improvement in some ways to the General Plan because of the closer level of resolution in the planning of this specific site, Las Soleras provides the foundation and framework for a community of mediocre design. It’s pedestrian unfriendly, it’s insensitive to the natural features and assets of the landscape that characterize Santa Fe....”

Mr. Chavez reviewed a supplemental submittal addressing three areas of recommended improvements to the Las Soleras proposal: Trails, Parks and Open Space, and Roads, and specifically the proposed expansion of width of Beckner Road to 98 feet. *[Submittal, including tabs and photographs, submitted as Exhibit “C.8” to these minutes.]*

Laura Lieneck, a science teacher at Capital High School and a resident of Nava Adé, said she lives near the “tributary arroyo” that runs mostly parallel to Governor Miles; and while upstream from her house there is no development in the area, the arroyo runs after a summer storm. She stated that the street she lives on, Whispering Wing, has a half-dozen homes built uphill from where she lives, and even a small amount of rain causes Whispering Wing to turn into a fairly brisk stream with runoff from the Las Soleras area and downhill. She stated that most of the northern development area is in fact uphill of Nava Adé, and the runoff from there is significant. She commented that runoff will increase dramatically if the continued drought conditions preclude landscaping. She noted that the corner of Governor Miles/Dancing Ground is the collection plain for the tributary arroyo — while it is open space now with many homes built around the area, including the Nava Adé clubhouse, with the increased runoff through the area, and assuming normal future precipitation, “I think we’ll be seeing many floods in our neighborhood because of runoff through that area.”

Becky Stamm, 4136 Soaring Eagle Lane, was sworn. She said Las Soleras and the Monte del Sol Charter School will abut her backyard fence.

Ms. Stamm said, “As a Stamm I can’t stand up here and stay I’m against development, but I can say that I am for development that creates communities, and I

don't believe that Las Soleras really has taken into consideration the entire community of Nava Adé and the surrounding area. I have been walking my dog behind the fence up and down the arroyos, and I do not go near I-25. No one in their right mind would go walk a dog near I-25, and that's what's been offered us. The corridor is nice and green up there, and it's all along I-25, and it stinks. I would not want to go there, and I don't think you guys would want to either."

Ms. Stamm commented that expanding Beckner to 98 feet would result in "a huge, huge road going through the neighborhood." She said two smaller roads would make better sense.

Ms. Stamm questioned why the Council was even discussing this, given the drought conditions. She pointed out that this area of town gets only about one-sixth the amount of precipitation experienced on the Eastside.

Jane Petchesky, chair of the Richards Avenue South Association, was sworn. She stated that the Association was concerned about the very high commercial use proposed on Richards Avenue as well as traffic. She urged the Council to consider traffic expected from Rancho Viejo, Community College and Nava Adé in future years.

Betsy Aaronberg, 4133 Soaring Eagle Lane, was sworn. She said, "There is a Golden Rule. He who has the gold rules. And in this particular case, the owners of the land will benefit more by having more commercial property. They'll benefit in their pockets. And that seems to be the underlying impetus for increasing the amount of commercial land and decreasing the amount of open space. Decreasing open space isn't fair."

This concluded public comment.

Responding to questioning from Councilor Ortiz, Mr. Siebert stated that he did not dispute any of Mr. Burns Chavez' remarks about interconnectedness: "All of those elements he's talking about are elements that would be incorporated into a subsequent plan. He talks about interconnectedness of the open space to schools and other parks and things like that. Absolutely, we don't disagree with that at all, and that will be part of the subsequent plan."

Councilor Ortiz asked Mr. Siebert if, in terms of the trails system, it would make more sense to connect the green parts on the Las Soleras plat now, as part of the General Plan amendment, to avoid confusion and debate in the future. He said everyone would then be clear about what the open space was.

Mr. Siebert referred to the exhibit on page 29A in the packet and commented that he thought it a comprehensive approach to the trails plan, but he would be happy to make any adjustments as necessary.

Councilor Ortiz stated that, under the General Plan, there is some protection from the corridor and the business center is smaller on the east side abutting Richards, while Las Soleras' most recent proposals has it all the way to Richards. He asked Mr. Siebert

to comment on the idea of reducing the acreage to conform to the original General Plan on Richards.

Mr. Siebert responded that he would have no problem in reducing the area by 18 acres to the original 24 acres.

Councilor Ortiz asked Mr. Siebert if the applicants would object to reducing the proposed 98-foot width on Beckner Road.

Mr. Siebert responded that the proposed width was the result of T-model evaluations done by a City staff consultant. He said that because of the two points of access to Richards Avenue and multiple points of access to Cerrillos, it appeared to the City that Beckner was approaching the point of a four-lane road, and the Traffic Division decided to err on the side of being conservative. He said the applicants would not object to a 67-foot width, but he did not think the Traffic Division would be comfortable with that.

City Traffic Engineer Rick Devine said staff's concern was the increase in commercial use. He suggested that the option for a possible four-lane road be left open until the detailed traffic impact analysis was submitted later. At that point, he said, the right of way could be given back to the development should it be determined that the four lane road was not needed.

Mr. Quarles stated that he understood that the 98 feet would not be along the entire segment.

In reviewing the documentation submitted by the neighborhood, Councilor Ortiz suggested that the green square in the area of LDR-2 and LDR-3 be "slid down" and combined with the other green space area.

Mr. Siebert responded that this would not be the precise location of a park, but the intent was to place a park in the center of a rather large residential area. He said the other residential area already has access to other open space, so it would seem preferable to keep a park toward the center of the larger residential area.

In the course of discussion on changes, Mr. Siebert said the fear was that this could trigger another General Plan amendment, putting the applicants into "an endless loop."

Councilor Ortiz said he recognized this as a failing of the General Plan, but thought it desirable to "solve some of those problems here tonight so that adjoining property owners — specifically Nava Adé — know with some certainty what's going to happen around them."

Councilor Ortiz asked Mr. Siebert if he would be willing to block out the parcels marked as LDR-4 and LDR-5 blocked out as green, and in consideration of that wiping out the green in the middle of the development and coming up with another color.

Mr. Siebert responded that he would agree to that provided they could balance out the overall development with respect to quality and intensity of use.

Councilor Ortiz moved to approve the master plan with staff's recommendations, with the following exceptions:

1) that for the property designated as purple on the east side of the project, which abuts Richards Avenue, instead of staff's alternative and the applicant's request, it instead conform with the 1999 General Plan on Richards;

2) that the tracts identified by the neighbors as LDR-4 and LDR-5 be designated in the General Plan as green, or open space, and that the green that is being put forward by the applicant be turned back into yellow;

3) that the trails system be identified as green in the General Plan; and

4) that the right of way on Beckner be only the same amount of right of way as currently exists on Governor Miles Road, assuming that this is the appropriate time to do the right of way, and if staff determines it not the appropriate time, then the applicant is on notice that the right of way will be shrunk down from 98 feet to 67 feet at time of annexation.

Councilor Lopez seconded the motion.

Councilor Lopez said she agreed with Councilor Ortiz about the idea of subtracting open space, but was concerned about potential development not having some open space, so she would probably have a larger parameter on how to offset the additional open space along Governor Miles.

Councilor Lopez said she was concerned that there be enough ROW along Beckner to allow a bike lane and adequate space for pedestrians, but she did not want to see a four-lane road there. She stated that perhaps one side could be for bikes and the other side for pedestrians.

Councilor Lopez asked Mr. Siebert to consider bike lanes on all of the streets in this subdivision when he came forward with his annexation request.

Councilor Bushee asked Councilor Ortiz to consider including the principles of the ARTF plan in addressing the right of way for Beckner Road.

Councilor Ortiz responded that he could not accept that. He said the ARTF plan was overly broad, and he thought that Beckner should have the same right of way width as Governor Miles. He reiterated his point, made in the motion, that this may not be the appropriate time in the process to address road issues.

Councilor Bushee pointed out that the ARTF plan has specific parameters for this area.

Councilor Bushee said she was also concerned about increased commercial use in this plan, which was more than twice what was originally suggested. She pointed out that some of these uses might involve increased water use, so should be a topic of discussion tonight.

Councilor Ortiz said he was not sure if the area comprising Las Soleras was identified in the City's Parks, Open Space, Trails and Recreation Master Plan and therefore should apply in this case. If so, he said, the applicant would be required to come forward with more designated open space at some point, but he was not sure if that was supposed to be now or at the time of annexation.

Councilor Ortiz restated his motion to include another amendment:

5) That this project would comply with the City's Parks, Open Space, Trails and Recreation Master Plan, if this is the appropriate time; if not, then that could occur at annexation.

Councilor Lopez seconded the restated motion.

Councilor Coss said he would be interested to know from Economic Development staff if the doubling of commercial use is something that the City needs, and if that is being considered in terms of the City's economic development, and will the City come out revenue-neutral when this area is annexed.

Mr. Siebert referred to an evaluation done by Community Development planner Craig Fiels indicating that this will generate revenues for the City. He noted that Mr. Fiels used a new econometric model purchased by the City, and had run it for Las Soleras and for the western annexation area. [Pages 136-137 of packet.] Mr. Siebert stated, "The idea is that the west side will not be generating sufficient revenues to cover the costs, but this in fact will be creating a surplus of revenues to the City."

Councilor Coss said he would object to Mr. Siebert's request that a condition be included which stated that the Arroyo Chamiso 100 year flood plain "shall be defined on the General Plan Future Land Use Map by FEMA Flood Insurance Rate Maps as may be amended from time to time by FEMA without the need to amend the General Plan Future Land Use Map." He said he was concerned that the arroyos be protected in this area.

Councilor Bushee noted that Mr. Siebert had also requested, as a condition, that "the office use located south of Beckner Road, consisting of 4.58 acres, may be relocated and reconfigured at the same or lesser acreage with review by City staff without the need to amend the City General Plan Future Land Use Map."

Councilor Ortiz stated that he had not recommended either request.

Mr. Quarles stated that staff's alternative recommended preservation of the open space.

Councilor Heldmeyer noted the neighborhood's request that half of the tract designated as MDR-4, specifically the hill, be replaced with a park in order to preserve forestation and the steepness of the hill and deal with drainage problems.

Mr. Lange clarified that the recommendation was to replace a little less than half of the 7.5 acre MDR-4 tract, so that the park designated as Park-3 by the applicant could be extended down to border on the Neighborhood Commercial. He said the neighbors felt it would make it much friendly, where they could walk their dogs over there and use the neighborhood center "as the neighborhood center and not just a commercial strip mall." [Reference: page 2-b of Exhibit "C.6" previously entered into record.]

Mr. Siebert said, "We understand your intent, and the neighbors' intent, to incorporate a greater amount of open space adjacent to the Neighborhood Commercial area. We would just incorporate that into our plan."

Councilor Heldmeyer proposed this as a friendly amendment.

Councilor Ortiz accepted the amendment with the understanding that the applicant "is going to be able to slide that acreage somewhere else."

Mr. Siebert stated that he could reconfigure the tract to provide more park area adjacent to the Neighborhood Commercial area.

Councilor Heldmeyer asked Mr. Siebert, "Is it really going to kill you to have another three acres of park?"

Mr. Siebert responded that Councilor Heldmeyer was essentially proposing that the park be increased 30% over the 6.5 acres, and yet the original General Plan recommendation only called for about 1.5 acres.

Councilor Heldmeyer countered that Las Soleras was increasing the commercial use by more than 100%.

Mr. Siebert consulted with Mr. Mahoney and then responded, "With all due respect, the answer is no. We would be willing to reconfigure the park to provide more adjacency to the Neighborhood Commercial."

Councilor Heldmeyer proposed a friendly amendment that the park area be increased by approximately three acres.

Councilor Ortiz *declined* to accept the amendment as friendly.

Councilor Ortiz said he was in favor of a reconfiguration of the park, but retaining the acreage as proposed by the applicants. He commented, "We have to at least have the appearance that we're staying within the spirit of the 1999 General Plan, because [otherwise] it's up for grabs...[and] I think it would be crazy for people who are trying to make decisions." He said he thought the open space concessions being made on the other side of the property that would most directly affect Nava Adé were sufficient consideration. He also pointed out that, when the commercial development in Las Soleras comes on line, the applicants will have to follow the dictates of the City of Santa Fe Parks, Open Space, Trails and Recreation Master Plan.

Councilor Heldmeyer then moved her amendment.

The motion died for lack of a second.

Councilor Heldmeyer asked if staff has evaluated Las Soleras' proposed doubling of commercial use in light of all of the commercial use that has been approved by Santa Fe County in the Community College District.

City Planner Reed Liming responded that staff has not evaluated that. He said, "What we're trying to get at, with a large enough master plan, is a jobs-to-housing balance. And primarily it depends on what kind of numbers you use, what kind of employment per acre of commercial development you're using. But what is set out in the plan before you is about a 1.4 jobs per housing ratio, and that's what we're trying to get at — about a 1.4 to 1.5 in the urban area."

Councilor Heldmeyer stated that some County Commissioners have expressed concern over the reluctance of developers in the Community College District to build housing right away, since commercial use is more lucrative. She asked what assurances the City has that Las Soleras will strive for that balance from the beginning as opposed to focusing on commercial construction first.

Mr. Liming responded that this could be addressed through phasing of the project as it comes on line to ensure that there is residential development within a phase along with commercial development.

Councilor Heldmeyer remarked that she was uneasy about the intensification of commercial use in this plan, and was not sure that the proposed open space and so forth would counterweight that intensification.

Councilor Wurzbarger pointed out that there was no water for this development at all, "period. None."

Councilor Wurzbarger proposed an amendment to add the following condition:

Approval of this General Plan amendment in no way shall be construed to create any rights to water or water service above those that may have existed prior to this approval.

The amendment was accepted as friendly.

Councilor Wurzbarger commented to Messrs. Mahoney and Siebert, "My projection is that, by the time you get this done, the retrofit approach will be over. So I just want to be sure we're all on the same page together, because we're going through a very painful process now of looking at lists of people who want water from the City, and they're already above you. I'm not trying to be cruel or harsh, but I think that is our reality."

Councilor Pfeffer asked Mr. Smith if the road network violated the Highway Corridor Plan in that area.

Mr. Smith responded that, in working with the City Traffic Division, Planning Division and Community Services Division, "the concern that all three of those divisions shared with regard to the width of Beckner Road was that we did not have planning for subcollectors and minor arterials to the level that is shown in that type of diagram.... We would hope that in fact it is possible to create a network that does have smaller roads than four lanes, but without a plan down to the level of the subcollector road, we can't absolutely guarantee the Council that there will not be a need for four lanes at some places along Beckner Road."

Councilor Pfeffer asked if two parallel roads would work, each consisting of two lanes, and Mr. Smith responded that staff hadn't studied that possibility.

Councilor Pfeffer said he thought the Nava Adé conceptual plan was "a heck of a lot better in terms of natural landscaping and traffic" than the Las Soleras plan. He commented that he did not see much difference in terms of land use between the two.

Councilor Pfeffer moved to accept the General Plan amendment as written, with the exception of what Las Soleras was proposing, and then ask the applicants to come back after discussing with staff the feasibility of the road network proposed by the neighborhood association.

The amendment was *not* accepted as friendly.

Responding to questioning from Councilor Bushee regarding the so-called intensification of commercial use in the Las Soleras plan, Mr. Quarles said the 1999 General Plan identified a total area of 73.3 acres of Business Park, Regional and Community Commercial; the plan identified by the applicant originally, prior to the changes, showed a total area of 152.8 acres. He said some of the land uses identified in the General Plan included the Mountain Corridor Zone, which is one unit per ten acres, whereas the plan submitted by Las Soleras identified that as open space.

Continuing, Mr. Quarles stated that the increase in commercial acreage could be attributed to the Mixed Use and Office designations included in the submittal. He pointed out that the 1999 plan did not identify any Mixed Use or Office uses, while the

Las Soleras plan identified 32.7 acres, which accounted for a majority of the increase in the commercial land uses identified.

Mr. Quarles stated that staff looked at the plan from the standpoint of the mix of uses along the Cerrillos Road corridor and the pattern of development there.

Mr. Quarles further clarified that staff's alternative recommendation for total commercial use, with the Mixed Use/Office, was 152.8 acres. He said the 1999 Plan, with no Mixed Use/Office, was 73.3 acres. He reiterated that a majority of this increase in commercial use could be accounted for in the Mixed Use and Office, and Mixed Use would allow for Residential uses and not just commercial uses.

Councilor Bushee commented that the City does not yet have a Mixed Use zoning category, although one is being planned, so essentially commercial space is being doubled.

Mr. Liming responded that part of the increase in nonresidential land area, or commercial land area, was that the City was "shooting for an employment figure by acres of nonresidential. When the proposal came in, the applicants really wanted much more retail along Cerrillos. That's a big change. The staff felt that, in putting the original General Plan together, we were short in Office and Business Park and not necessarily in retail. When you start looking at factors of employees per acre of retail versus office, it's generally more intense with a business park, and so you need fewer acres. I think part of this is we were looking for an employment per housing unit, and when the applicant wanted basically retail land along Cerrillos, retail doesn't give you quite the employment per acre of development, and so it ended up bumping up acreage in order to try and meet this overall employment figure."

Councilor Bushee asked staff to compare the acreage increases or decreases in land use categories between the Las Soleras plan and the 1999 General Plan.

Mr. Quarles responded that there was an increase in open space from 144.9 acres to 209.4 acres, which could partly be explained by the fact that the Mountain Corridor zoning was not considered open space. Without the Mountain Corridor, he said, the open space and parks would be relatively similar to the 1999 plan.

Mr. Quarles also noted that residential use decreased from 488 acres to 280.4 acres while commercial use increased.

Councilor Bushee cited a CTSI Southwest study, commissioned by the City, reflecting that the commercial sector uses far more water than the residential sector, even though the commercial sector is much smaller by comparison. She questioned at what point the City would begin discussing a sustainable land use plan to go along with a sustainable supply of water rather than dealing with it piecemeal. She commented, "There are some policy decisions here that have to be made when you expand commercial uses, and what that means."

Councilor Coss commented that the Community College District was developed without any input from the Regional Planning Authority. He said Las Soleras has been to the RPA, but only as a presentation. He said the County asked if they could review Las Soleras with the City, and "the City said this is an annexation and we'll handle it, thank you."

Resolution No. 2003-23, as amended, passed on the following Roll Call vote:

For: Councilor Chavez; Councilor Coss; Councilor Lopez; Councilor Ortiz; Councilor Pfeffer; Councilor Wurzbarger.

Against: Councilor Bushee; Councilor Heldmeyer.

[The Afternoon Session was continued.]

MATTERS FROM THE CITY MANAGER

Mr. Romero reminded Councilors that there would be a budget retreat on Saturday, March 1 from 9:00 a.m. to 12 noon.

MATTERS FROM THE CITY CLERK

None.

COMMUNICATIONS FROM THE GOVERNING BODY

Councilor Chavez

Councilor Chavez distributed a resolution supporting the passage of House Bill 12, the Fine Arts Education Act, which would make funding available to school districts for Fine Arts Education programs. He said the bill has been introduced by Rep. Coll.

Councilor Bushee

Councilor Bushee distributed an ordinance relating to parking in lieu of fees for the BCD, in order to create revenues to build the Sweeney Center parking facility and Railyard parking facility.

Councilor Bushee said Chief Lennen has distributed an ordinance relating to carnivals and circuses.

Councilor Ortiz

Councilor Ortiz distributed a resolution authorizing the submission of agreement with the NMED for the Buckman diversion project.

Councilor Lopez

Councilor Lopez distributed a City-County joint resolution urging development of a water budget for the Santa Fe Regional Area by the RPA.

Councilor Heldmeyer

Councilor Heldmeyer acknowledged the passing of Allen Stamm, who changed the face of Santa Fe in many ways.

ADJOURN

Its business completed, the Governing Body adjourned the meeting at approximately 12:00 a.m.

Approved by:

Mayor Larry A. Delgado

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully Submitted:

Judith S. Beatty, City Council Reporter